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STATE OF CALIFORNIA

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SACRAMENTO, CALIFORNIA

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STATE CAPITOL

ROOM 113

SACRAMENTO, CALIFORNIA

WEDNESDAY, MARCH 21, 1990

1:52 P.M.

Reported by:

Evelyn J. Mizak
Shorthand Reporter

APPEARANCESMEMBERS PRESENT

SENATOR DAVID ROBERTI, Chairman

SENATOR WILLIAM CRAVEN, Vice Chairman

SENATOR ROBERT BEVERLY

SENATOR HENRY MELLO

SENATOR NICHOLAS PETRIS

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

PHOEBE H. COOKE, Member
California Horse Racing Board

WILLIAM M. LANSDALE, Member
California Horse Racing Board

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P-R-O-C-E-E-D-I-N-G-S

--oo0oo--

SENATOR CRAVEN: Next let's go to Governor's Appointees appearing today. First is Phoebe H. Cooke, Member, California Horse Racing Board.

Good afternoon, Ms. Cooke. We will ask you the question we ask all the Governor's Appointees, and that is to tell us briefly why you feel you are qualified for this position.

MS. COOKE: I have been involved with horses all my life, and as I mentioned at the first meeting I attended, my great-grandfather was very involved in California and nationally with horse racing as a charter member of the Jockey Club and also what is now Bay Meadows Racing; very involved in thoroughbred horses.

I feel I'm qualified because I have not a great deal of professional knowledge of horses, but I think I have a great deal of common sense. I've owned, and shown, and ridden horses all of my life.

I was appointed to fill an unexpired term which only lasts until January 1, 1991. And for that reason, I felt that if I was going to be effective, I would have to really hit the ground running, which I have done in every instance, with my first meeting, which was October 15th, which was a special meeting.

I've made some recommendations that have been carried out, I think, that are going to be far reaching. And I've found

1 that there are a lot of problems in the horse racing industry
2 which are not insurmountable, but need to be addressed, and need
3 to be addressed very quickly. And I hope to take advantage of
4 the opportunity to be here to make a presentation to you of some
5 points. I've handed out to you some items that I feel, and the
6 Board -- the other members of the Board join me in this feeling,
7 and I hoped that I would be able to present concerns of all of
8 us, you know, for you to ponder here today.

9 SENATOR CRAVEN: Yes.

10 Was it your intention to go through those things now?

11 MS. COOKE: If you would give me time.

12 SENATOR CRAVEN: I may well do that, but let us first
13 -- have you concluded your other remarks?

14 Let us first see if there are any questions from any
15 of the Members of the Rules Committee. It appears that there
16 are none.

17 Then I'd ask if there's anyone in the audience who
18 wishes to speak to this item, either pro or con. There appears
19 once again to be none.

20 Senator Petris has come to the rescue.

21 SENATOR PETRIS: Thank you.

22 Are you from Northern California?

23 MS. COOKE: Yes, I live in Woodside.

24 SENATOR PETRIS: You're the only member.

25 MS. COOKE: The only Northern California member, yes.

26 SENATOR PETRIS: Well, the Governor finally
27 recognized the North.
28

1 SENATOR CRAVEN: We've been saying that about him in
2 the South.

3 SENATOR PETRIS: It seems to me the Board has had a
4 lot of problems in the last few years.

5 How long have you been on it?

6 MS. COOKE: I just came on. Well, I was appointed in
7 September to fill the unexpired term of Benjamin Felton, Ben
8 Felton.

9 SENATOR PETRIS: Do you feel comfortable there? Do
10 you want to stay on?

11 MS. COOKE: Absolutely. Whether I would want to have
12 another term or not, which would have to start in January, 1991,
13 is another question. I'm hoping -- this is why I say I've --

14 SENATOR PETRIS: You're filling the last part --

15 MS. COOKE: I'm filling an unexpired term, which only
16 would have lasted a total of 15 months. And so far, I've been
17 on the Board for six months, so I have nine months more to go.
18 And I'm very anxious to serve those nine months, because I've
19 started something which I would like to see.

20 SENATOR PETRIS: Yes, you've said you've made some
21 recommendations. Can you tell us about them?

22 MS. COOKE: Well, one of the first things that I was
23 instrumental in doing is, I discovered that the Board had passed
24 resolutions giving the total authority of the Board to four
25 staff members. And this was in 1987 to two staff members, and
26 another one in '88, and another one in '89, where they virtually
27 had given the total authority of the Board to four staff
28

1 members, of course, not being able to give the responsibility
2 away.

3 It took three meetings. In fact, I had to go to my
4 own attorney to draft a resolution vacating those resolutions,
5 because the Board staff wasn't terribly anxious to facilitate
6 that.

7 But we now have the Board in full control, and
8 learning many things that they had more or less taken for
9 granted that need the Board, with the authority, to look into it
10 and make the changes.

11 There was, you know, not really good communication
12 when it was just the Board learning what the staff told them at
13 meetings. So, I think that's a very positive step we've taken.

14 The other one, I noticed that we had not been doing
15 postmortems, autopsies, on horses, although we have a resolution
16 in the horse racing law that postmortems shall be conducted on
17 every horse that either dies at the track or is put down because
18 of an injury, or whether they die in training, or on the track
19 during a race, or whether it's just a pony horse. And I think
20 it's very important that this be done to help find out, one, the
21 cause of death, and also to do research when you find out by
22 doing an autopsy if there's been long-term drug abuse, if there
23 has been, you know, some illness that is contagious. There are
24 many horses in close proximity on the back stretch, and there is
25 no requirement for vaccinations or anything else, and horses
26 being shipped in and out. So, you could have horses coming in
27 there with a disease, and the horse dies, and he's gone, and you
28

1 don't even know, you know, what was wrong with it.

2 So, it's going to be a big step as far as our
3 research. It's also going to be a big step as far as having the
4 evidence, if there is found through the laboratory testing and
5 so forth, that there has been illegal drug abuse.

6 SENATOR PETRIS: How do you account for that laxity
7 on the part of the Board?

8 MS. COOKE: I don't know. It just had not been done.
9 And I discovered this because our medical director, Dr. Maher
10 from Davis, who has only been with the Board less than a year,
11 but is doing a marvelous job, was reporting on the fact that
12 they had been doing some testings, some testing of fluids in the
13 joints and so forth, but they had never done any postmortems
14 whatsoever.

15 And I had just read the paragraph in the rules that
16 said that since 1981, this had been a requirement. It says
17 "shall"; it doesn't say "may be".

18 So, we are planning on changing the language so that
19 the testing will be done at the California Veterinary Diagnostic
20 Laboratory System at the University of California at Davis, and
21 the horses from the South will be tested at San Bernardino at
22 their laboratory, and the ones at the North at Davis. And we've
23 already, since we've instituted this, as of last week have had
24 eight horses go to Davis for autopsies from -- some from Bay
25 Meadows, some from Golden Gate. It's an astonishing number of
26 horses that die at the track, and we're hoping to, you know,
27 find out why.
28

1 SENATOR PETRIS: Are you familiar with the hearings
2 done last year by the Assembly Committee on Governmental
3 Organization? They had hearings on the drug abuse on the track.
4 And the Chair was very disappointed by what he found. He found
5 there seemed to be a lack of attention to this. In fact, the
6 statement he made was that the Board's in utter confusion. He
7 told them:

8 "You say you'll prosecute, yet you
9 have no written records of what
10 testing procedures will be used.
11 You're going after a whole lot of
12 things late, and you're certainly
13 not enhancing the industry in the
14 state."

15 He was, obviously, very upset about what he'd found.

16 It sounds like you're the only one that's been
17 listening or reading.

18 MS. COOKE: Well, there are several, you know,
19 steps that we're taking that are going to make a big
20 difference. Not only the -- we found the same problem with
21 the testing, and we had asked for a special audit to be done
22 of the Truesdale Laboratory last November at our meeting.
23 This was a motion that was determined by the Board. That was
24 followed up with a letter by our business administrator to
25 the Department of Finance, their accounting -- whatever that
26 department is -- asking them to audit the Truesdale Lab. that
27 has been doing our testing for some long time.
28

1 I learned just two weeks ago that that audit hasn't
2 even started. I was asking what the results of it were,
3 what's been found out. The audit hasn't even started. And
4 the excuse was given that it cost \$15,000, and we don't have
5 the \$15,000.

6 And we're supposed to be putting out a proposal for
7 bids for the testing for the 1990-1991 fiscal year. Those
8 are supposed to be out next month. And it was my point at
9 the last meeting, because those bids, the way they were
10 written, it was for the low bid only, or no bid. And it was
11 my strong feeling, and we're going to meet tomorrow and
12 discuss it, I would very much like to see a point count bid
13 for proposal, so that we get not only something that is not
14 going to be too costly, but also that we get really superior
15 work done by a laboratory.

16 SENATOR PETRIS: I'm glad to hear you're doing
17 these things.

18 There's another group that did a study, the
19 California Horseman's Benevolent and Protective Association.
20 They did their own independent study, and they said that the
21 use of illegal drugs in enhancing the performance of the
22 horses is so wide spread and rampant that it's an epidemic.

23 It just seems to me, if that's the case, and this
24 is a widely respected organization of horsemen, if that is
25 the conclusion they reach, that things are just totally out
26 of hand. I wonder what in the world the Board is doing?
27 That's one of their primary functions.
28

1 MS. COOKE: One of the problems, and I attended a
2 workshop at Davis last month that was attended by some of the
3 top pharmacologists and toxicologists and veterinarians from
4 all over the country, from Iowa, which we now have a
5 complimentary testing program for -- this will end in June,
6 with Iowa State doing complimentary testing. They will have
7 tested 4,000 samples in this contract that we let with them.
8 And that's a very healthy thing, because if you get a
9 positive, that's just the start of it. And you have to have
10 it documented and approached from many different ways before
11 you can really declare that that is a positive that you can
12 prove.

13 SENATOR PETRIS: Don't they do any routine testing
14 now?

15 MS. COOKE: Absolutely. We're still doing routine
16 testing, although we are -- it's Dr. Maher's advice, and I
17 think that we agreed and will vote on it at the next month,
18 that when we get a test that is a negative, and in each case
19 with the urine samples, we have a split sample so there's a
20 sample for the trainer if they wish it. You know, it's
21 divided up.

22 If the Board -- if, in the first screening, it
23 turns out to be a negative, that sample is destroyed. It is
24 not saved. It's thrown away.

25 If that sample on the first screening becomes a
26 positive, and then it is secondly with additional tests it is
27 proven by the laboratory to be a positive, then
28

1 confidentially we intend to approach the trainer of that
2 horse and tell them that a positive has been found by our
3 laboratory, and give them the opportunity of using their
4 split sample and sending within five days to another
5 laboratory. And the other laboratory would have to be one of
6 three. It would be Cornell, or Iowa State, or Ohio State.

7 And if the split sample is found by the other test
8 at the other laboratory to be negative, even though ours was
9 a positive, we would not pursue that any further.

10 SENATOR PETRIS: What if everything's positive?

11 MS. COOKE: If they are both positive, then we
12 would pursue it, and we would ask that the trainer no longer
13 question whether that was a positive or not. So that this
14 would ensure the fact that the scientists had agreed that
15 there was a prohibitive drug in this sample.

16 SENATOR PETRIS: What's the penalty? What happens
17 after that?

18 MS. COOKE: Then, as far as the penalty was
19 concerned, that would be decided first by the stewards, or
20 then they could come to the Board, so that they would have
21 ways that they could be heard.

22 For instance, it's been proven that if a horse was
23 given penicillin because of some influenza or some problem
24 that they needed an antibiotic, ten days before they raced,
25 you could pick up in a test a tiny, tiny little bit of
26 procaine, which is an illegal drug.

27 But if these two labs said this was a positive, it
28

1 was positive for procaine, what we want to avoid is going to
2 another lab, and another lab, and finally finding a lab that
3 will say it's a negative. So, we're no longer arguing that.

4 Then, if that horse had a veterinarian, a licensed
5 veterinarian, inject that horse with this antibiotic ten days
6 before for some particular purpose, and if there was just a
7 tiny little bit of procaine that was a residue, it was
8 nothing that could have influenced. It was just -- you know,
9 they should have pretested that horse before he ran, then in
10 your penalty, you could make a lighter penalty. You know,
11 you wouldn't have to -- and this would be up to the stewards.

12 If there was a massive amount of an illegal drug,
13 and there was no excuse possible for that except to alter the
14 performance of the horse, then I think you would have the
15 grounds to take the purses away, you know, give them a very
16 severe penalty.

17 SENATOR PETRIS: In a different area, I've asked
18 this if prior nominees to the Board, in 1987, we passed a
19 bill, SB 14, carried by Senator Maddy, who is more
20 knowledgeable about horses and horse racing than anybody in
21 the Legislature.

22 That bill extended betting to satellite facilities,
23 and it was very controversial. Among others, the unions
24 opposed it. Unions had always had a tough time with the
25 Board.

26 There's no grievance procedure to this day. If an
27 employee there has a problem, there's nobody available, like
28

1 the NLRB nationally, or the ALRB for farmworkers, for
2 example. There's just nobody where they can go and take
3 their grievances. They go through some procedure in the
4 union, and then maybe things happen and maybe they don't.

5 So, there was an amendment to the bill that made it
6 very clear that there would be certain provisions regarding
7 grievances by union members that would be heard.

8 Our experience has been that that has been totally
9 ignored since that was adopted, and there are all kinds of
10 promises made by proponents of the bill who were supporting
11 it that things would happen.

12 What I'd like to know is, have any of these
13 problems been brought to your attention in the way of a
14 grievance of this kind?

15 MS. COOKE: I was on the Pari-mutuel Committee
16 several -- I guess two months ago. I'm not on that
17 committee, but I was there because two of our Board members
18 who are on that committee weren't able to be there.

19 And it -- there was a disagreement between
20 Simulcast and CARF as far as the racing fairs and the
21 satellites at the various fair locations. And there had not
22 been an agreement made.

23 And it was my strong feeling that CARF was the
24 right person to negotiate for the fairs, that it wasn't -- it
25 was improper for the Bay Meadows, Golden Gate and Simulcast
26 to be imposing their will on the individual fairs, one by
27 one; you know, divide and conquer. And so -- which is what
28

1 they were doing. They had allowed some satellite operations
2 to function, and refused to send the signal to others, and so
3 forth and so on.

4 I believe that that was taken care of, although I
5 know that we don't have the accurate figures on what is going
6 on at the satellites. We do get the reports, and the little
7 one up at Eureka has been upset because -- and I think
8 rightly so -- because they've only had one clerk there. And
9 if one of the machines, that clerk has to go fix it. And
10 very often, there are quite a few customers that don't get to
11 place their bets because there are too many people for the
12 one clerk to handle. And I think this is a question which
13 the unions would see to it that there were enough clerks to
14 handle the business.

15 SENATOR PETRIS: Well, the use of the machines and
16 the abuse has been a grievance of the unions for a long time.

17 MS. COOKE: The other thing, the machines, from
18 what I understand, only on a machine can you bet on the \$2
19 exacta. That you have to -- with a clerk, you can only do a
20 \$5 bet, so you're stuck with the machines. And then, if
21 there's a scratch, you know, there's nothing that they can do
22 about it because it's a machine, and you know how machines
23 are.

24 SENATOR PETRIS: Most of the complaints on the lack
25 of union recognition seem to be at Del Mar.

26 Have you seen or heard of any problems at Del Mar?

27 MS. COOKE: I heard. I'm not aware of it, but I've
28

1 also heard that it's been resolved. I heard that it was
2 resolved satisfactorily for both sides, but the specifics of
3 it I don't know.

4 SENATOR PETRIS: I'm curious about your name.
5 You're a Hearst Corporation official?

6 MS. COOKE: Well, a director.

7 SENATOR PETRIS: Your first name is very famous in
8 the Hearst family.

9 MS. COOKE: That was my great-grandmother.

10 SENATOR PETRIS: She has some marvelous -- well,
11 great generosity of gifts in my district at the University of
12 California.

13 MS. COOKE: Yes.

14 SENATOR PETRIS: Which we are very appreciative of
15 and have praised for many years, including the Greek Theater,
16 I might add.

17 The critics of the Board over the years seem to
18 come from all directions. I know the unions have been
19 unhappy for a long time, and the machine aggravated some of
20 their disputes.

21 Others have a feeling that we really don't need the
22 Race Board. With all the problems that have developed, it
23 would probably be just as well to let the private sector take
24 over, forget about having a Race Board, and see how that
25 works for a while.

26 What is your impression of that?

27 MS. COOKE: I think that's completely wrong. I
28

1 think now that the Racing Board has taken back the authority,
2 and now that they are not only responsible for all of the
3 different aspects of it, but they're going to spend much more
4 time individually, but also our new chairman, Henry Chavez,
5 intends to have the committees working very, very hard, and
6 handling a lot of the business.

7 But we are also changing a rule, and I don't know
8 quite how to say it; I have a paper written on it. Because
9 of the open meeting laws, in the past only three members of
10 the Board could attend any of the committee meetings, or it
11 became of full meeting, and so forth. So that there is -- a
12 lot of the areas, unless you're on that committee, you're
13 not allowed to go there and listen and hear the information,
14 and it hasn't been mailed to you, and so forth.

15 This happened to me at a meeting this month, when I
16 was in Los Angeles for Drug and Medications Committee
17 meeting, and there was a Stewards meeting that afternoon, and
18 I was not allowed to attend.

19 So, I had an attorney look up the laws and so forth
20 and so on.

21 SENATOR PETRIS: It's usually the press that
22 complains about that.

23 MS. COOKE: Well, I was not intending to
24 participate, you know, behind the table to vote or to be, if
25 they went into executive session. But I thought that I --

26 SENATOR PETRIS: You just wanted to observe.

27 MS. COOKE: I wanted to. I think that the more
28

1 knowledgeable the individual members are on every subject,
2 the better off we are.

3 So that we are instituting, and I read a proposal
4 into the minutes of the meeting and we're going to adopt it
5 at the next meeting, whereby all our meetings are,
6 quote-unquote, "public meetings", so that Board members can
7 come and participate in the discussion and also learn
8 something.

9 SENATOR PETRIS: Well, it sounds to me like you've
10 initiated some very good reforms. I hope you keep it up, and
11 I wish you well.

12 Thank you.

13 SENATOR CRAVEN: Do you want to leave that with us?

14 MS. COOKE: I don't know if I should take your time
15 to read it into the formal minutes, but -- and I did not sign
16 this.

17 What we intend to do is mail it to all of you with
18 my signature on it, and maybe I won't take your time to read
19 it.

20 SENATOR CRAVEN: Ms. Cooke, if you have sufficient
21 copies to leave with us today --

22 MS. COOKE: Yes, we have.

23 SENATOR CRAVEN: We'll have it entered into the
24 record, and we will have the opportunity, then, to peruse
25 what you've said, and we would appreciate it very much.

26 MS. COOKE: Fine, thank you.

27 SENATOR CRAVEN: Senator Beverly.
28

1 SENATOR BEVERLY: Move the appointment.

2 SENATOR CRAVEN: Senator Beverly moves the
3 nomination to the Floor.

4 There being no further questions or debate, call
5 the roll, please.

6 SECRETARY WEBB: Senator Beverly.

7 SENATOR BEVERLY: Aye.

8 SECRETARY WEBB: Senator Mello.

9 SENATOR MELLO: Aye.

10 SECRETARY WEBB: Senator Petris.

11 SENATOR PETRIS: Aye.

12 SECRETARY WEBB: Senator Craven.

13 SENATOR CRAVEN: Aye.

14 SECRETARY WEBB: Senator Roberti.

15 CHAIRMAN ROBERTI: Aye.

16 SENATOR CRAVEN: Five-zero to the Floor.

17 Congratulations and thank you very much for being
18 here.

19 Next of the Governor's Appointees is Mr. William M.
20 Lansdale, Member of the California Horse Racing Board.

21 Mr. Lansdale, we'll ask you to begin the same way,
22 to state why you feel you are qualified for this position,
23 sir.

24 MR. LANSDALE: All right, sir.

25 My name is William Lansdale. I'm from Southern
26 California and pleased to be here.

27 I read about you gentlemen all the time. I never
28

1 get to actually see you. You're famous.

2 SENATOR CRAVEN: I'm sorry; we didn't wear our
3 horns today.

4 [Laughter.]

5 MR. LANSDALE: I haven't heard anything about that.

6 SENATOR CRAVEN: You're the one.

7 [Laughter.]

8 MR. LANSDALE: The previous commissioner,
9 Ms. Phoebe Cooke, is a breath of fresh air that's come into
10 the Horse Racing Board, and we're all delighted that she's
11 there.

12 SENATOR CRAVEN: I can understand that.

13 MR. LANSDALE: She speaks right up and digs into
14 things and finds out about them, brings them up and keeps at
15 them until she gets what she wants. And we're just delighted
16 that she is doing that. So, I heartily approve your approval
17 of her.

18 My -- I've been on the Race Board now
19 approximately four years, and I like it very much. I
20 mentioned the last time that my qualifications for being on
21 this Board were just only my love of horses and being around
22 them for many, many years, probably fifty years.

23 And I'm a fairly successful businessman, and I
24 think you need business in this thing, too. We need to save
25 money. We don't need to go over our budgets. We don't need
26 to do all these things that can happen if you don't watch the
27 dollar. This is one of the areas that I have a small
28

1 expertise in, and that's the reason, I think, I'm a good
2 Board member.

3 I get along with all the Board members, even the
4 ones they vote no on. We get along fine.

5 I think it's a good thing. I'd like to answer your
6 questions, Senator, that you had of the other party. You
7 mentioned about you think we should do away with this Board
8 and maybe let private industry run it.

9 I'm for private industry 100 percent in almost
10 every case. I -- the only difference would be here, is that
11 the state would not make approximately \$150 million a year.
12 If the state made something like \$20-30 million a year, the
13 private sector would be the place to run it. But they make
14 too much money, I think, to let that go.

15 We all work for, you know -- I work for nothing. I
16 don't take any remuneration, either travel, telephones,
17 hotels, \$100 a meeting, et cetera. I don't take anything.
18 That's probably about what I'm worth.

19 SENATOR PETRIS: Is that a fair return for the
20 state for its interest and activity?

21 Some people think it ought to be more. What's your
22 view?

23 MR. LANSDALE: Well, my view is that it would have
24 been more right now if it hadn't been for the Lottery. The
25 Lottery has, on these tremendous 6, 10, 15, and 20 million
26 dollar awards, the Lotteries have cut into horse racing.

27 I believe horse racing's just coming back now,
28

1 however.

2 SENATOR PETRIS: Do they have Lottery tickets
3 available at the tracks?

4 MR. LANSDALE: Not that I know of.

5 SENATOR PETRIS: Might be a good way to go.

6 MR. LANSDALE: Yes, sir.

7 SENATOR PETRIS: Bring the Lottery players into the
8 track.

9 Some people are unhappy about the big drop in
10 harness racing over the last 11 years, 11 or 12 years. It's
11 a very substantial drop in the total number of racing days.
12 Some people say, "Well, people don't like the harnesses,"
13 but others feel that it reflects a bias on the part of the
14 Board over many years in favor of the other two ingredients.

15 What is your feeling on that?

16 MR. LANSDALE: My feeling is that I was astounded
17 when I learned that approximately 98 percent of the income
18 from horse racing in California is from thoroughbreds.
19 Thoroughbred racing. I had no idea that quarter-horses
20 didn't have some more of an impact than that, but quarter-
21 horses don't. They have a little bit more impact than the
22 standardbred.

23 The standardbred is not, to me, is not an exciting
24 race, where they're barreling down the finish line, and dust
25 is flying, and people are yelling. And the harness races
26 just kind of trickle on and get there, as far as I'm
27 concerned. I don't think they're really exciting.
28

1 They never have paid off well. The Board has, over
2 the many ten years, has reduced the license requirements of
3 harness racing, and also the standardbred industry. And this
4 hasn't helped much, but it's helped a little bit.

5 They're down very small; right around two percent,
6 and horse racing is around seven-and-a-half percent, or
7 thoroughbred. So, they don't pay much; they don't pay the
8 state very much. They're not very popular.

9 SENATOR PETRIS: The attendance dropped from 1.4
10 million to 500,000.

11 MR. LANSDALE: What did?

12 SENATOR PETRIS: Attendance at the harness races.

13 MR. LANSDALE: Yes, sir.

14 SENATOR PETRIS: What about drug abuse? Do you
15 care to make any comment on the questions I raised?

16 MR. LANSDALE: No, I'm not on the Medication
17 Committee, but I can say that Senator Floyd [sic], in his
18 evaluation of the Horse Racing Board and business, I don't
19 agree with him at all on this. The first time I ever met
20 this man he walked into the room and said that the entire
21 Board is going against the people of California and was doing
22 a terrible job to the people of California.

23 I don't believe that at all. I don't even believe
24 it at all. I think he's strictly there for -- I don't know
25 what he's there for. He doesn't say anything that I
26 understand.

27 SENATOR PETRIS: Maybe he's trying to get your
28

1 attention on the problem.

2 Let's look at the Benevolent -- whatever that's
3 called.

4 MR. LANSDALE: The Protective Association, yes.

5 SENATOR PETRIS: Now, they say that it's reached
6 epidemic proportions.

7 Doesn't that trouble you?

8 MR. LANSDALE: Yes, sir, that does. I don't
9 believe their survey, however. I don't believe it.

10 SENATOR PETRIS: What's wrong with it?

11 MR. LANSDALE: I think it's -- it's kind of a
12 crisis thing that they're saying to get someone's attention,
13 and get more attention, get more racing days, to get more
14 whatever.

15 SENATOR PETRIS: It would seem to me that those
16 kinds of revelations would get less racing days than more.

17 If I looked at that in a newspaper article, and I'm
18 interested in keeping everything on the up-and-up, and a
19 respected group of horsemen concluded that the abuse has
20 reached epidemic proportions, my inclination would be to shut
21 them down, not increase the number of racing days.

22 That doesn't seem to be the right motive for that
23 particular --

24 MR. LANSDALE: Well, I don't agree with them on
25 that at all.

26 We have -- we have testing. We have pretty good
27 testing now. We spend around a million-four now on testing.
28

1 We've had the same laboratory for many, many years;
2 although, for the last year we've been a little bit ticked
3 off at the Truesdale Laboratory, it's true, because we -- we
4 don't feel that they're giving us as much for our money as we
5 can find someplace. That's the only thing that's bad about
6 it.

7 SENATOR PETRIS: There seem to be some gaps.
8 There's no postmortems done, for example. It seems to me
9 that should be done in every case.

10 MR. LANSDALE: That's one of the things that our
11 new commissioner has brought up about postmortems, and that
12 it should be a law. And our Board immediately put it into
13 law after hearing the presentation from her.

14 I think it's a good idea. Excellent idea.

15 SENATOR PETRIS: I wonder why it didn't occur to
16 anybody before?

17 MR. LANSDALE: I don't know, sir.

18 SENATOR PETRIS: There's nobody blowing the
19 whistle, I guess. Nobody trying to --

20 MR. LANSDALE: Well, when a horse is put away, it's
21 a sad occasion, and it's a costly occasion. It runs from
22 \$150 to -- well, \$35, actually is the very minimum you could
23 get, and it runs to \$1500. So, the owner has to pay for
24 this, and this is not a happy occasion. I just don't think
25 it's a very popular thing.

26 SENATOR PETRIS: Do you have horses yourself?

27 MR. LANSDALE: No, sir.
28

1 SENATOR PETRIS: Did you use to?

2 MR. LANSDALE: No, sir.

3 SENATOR PETRIS: That's permitted now, though;
4 isn't it?

5 MR. LANSDALE: Sir?

6 SENATOR PETRIS: Some Board members have horses of
7 their own?

8 MR. LANSDALE: Some have them, yes, sir. We were
9 asked by our Governor when appointed not to have any. If at
10 all possible, not to have any horses.

11 SENATOR PETRIS: There used to be a ban against it,
12 but then that was changed on the ground that, well, if you're
13 going to get some people, at least some, who know what it's
14 all about, you're going to have to include people who own
15 horses and race them.

16 MR. LANSDALE: Right.

17 SENATOR PETRIS: That seems logical to me.

18 MR. LANSDALE: I think it's a good idea to have, if
19 it doesn't become a conflict of interest in some way.

20 SENATOR PETRIS: Thanks.

21 MR. LANSDALE: Yes, sir.

22 SENATOR CRAVEN: Senator Mello.

23 SENATOR MELLO: I have a couple questions.
24 You stated earlier you've been reading about us,
25 and I read a little bit about you here.

26 MR. LANSDALE: I'm sure you did.

27 SENATOR MELLO: I want to ask you some questions
28

1 here about these allegations that were reported in the
2 Philadelphia Inquirer about -- well, I'll read the headline:
3 "Millionaire Businessman and His Island Tax Shelter."

4 They're alleging here that you were able to have
5 Congress -- this may not seem directly involved with the
6 Horse Racing Board, but I think --

7 MR. LANSDALE: Sure. I invite the question,
8 Senator. Please continue.

9 SENATOR MELLO: I want to explain the reason for
10 asking it. It's because I think that the Horse Racing Board
11 is coming under a lot of credibility issues, and the
12 integrity or allegations that may affect any member could
13 cause one to wonder whether or not decisions are made there
14 truly in the public interest.

15 The allegations here claim that the Internal
16 Revenue Service audited you, and they found that there were
17 some taxes owed the government because of holdings in the
18 Virgin Islands. And they quote you as a well-connected,
19 politically well-connected, and you were able to get Congress
20 to insert a loophole in the Tax Reform Act of 1986 and
21 provide tax shelters.

22 And I was reading this. The language in here
23 specifically refers to -- I mean, it's narrowly drafted to be
24 applied to holdings or contracts of March 6th, 1981.

25 This is all new since you were confirmed last time,
26 because this happened in '86 and '88.

27 And as a result of that, you were able to save
28

1 about \$4½ million in penalties and interest from that
2 incident. Then it also shows your involvement politically,
3 which is fine. People can donate to the party of their
4 choice and candidate, and so forth.

5 I just wondered if you'd like to explain that.
6 What bothers me a little bit, you are in a position of great
7 public trust, being on the Horse Racing Board. And it
8 appears that the fact that you were able to, because of your
9 connections with people in high places, you were able to get
10 this most favorable treatment to you personally.

11 So, you're in a great position of power on the
12 Horse Racing Board, and I just wonder how you could separate
13 these connections you have from day-to-day decisions being
14 made on the Horse Racing Board.

15 MR. LANSDALE: I really don't understand your
16 question, but I'll be glad to answer what I think you said
17 there. I don't know what one has to do with another.

18 However, I will comment on that article; all right?
19 Is that what you want me to do? I'm familiar with that
20 article, and I'd be glad to comment on it.

21 SENATOR MELLO: I've used the word "allegation".
22 I'm using printed information here.

23 MR. LANSDALE: Sure.

24 SENATOR MELLO: I'm not publicly fabricating any of
25 this. I'm just reading --

26 MR. LANSDALE: No, I understand.

27 You're a Senator. You're a high profile person.
28

1 You know what the newspapers and these reporters do better
2 than I do. I'm not near as high a profile as you are.

3 I'll be glad to tell you what they do to high
4 profile people.

5 That newspaper, the Philadelphia Inquirer that
6 wrote that article, they did spell my name right, and that
7 was about the only piece of truth in the whole damned
8 article, was that my name was in there, and that I have a
9 dispute with the U.S.V.I. on income taxes.

10 Yes, sir, I sure do. These people, along with
11 Puerto Rico, advertise for people in business to come down to
12 their islands and invest. And when they came down to invest
13 in their island and create jobs, they would give them a tax
14 break for a certain period of time. There's hundreds of
15 companies that I'm one of that went down there.

16 I wish I'd never seen that place before, because
17 when you say that I have friends in high places in the
18 Congress that changed the law, in 1986 the tax law was
19 changed. And much to my terrible, terrible displeasure, it
20 was changed retroactively for four years, and picked me up
21 for four years of taxes that I didn't even know -- wasn't
22 even a law when I was down there.

23 I'm so mad at the Congress of the United States, I
24 don't know what to do. How can you make a retroactive law?
25 But they did.

26 Those are my connections with our fine Congress, or
27 my connections, they made a retroactive law.
28

1 Senator Dole said -- it's in the newspaper -- that
2 he didn't know anything about this 1986 tax thing. He
3 thought it was a good thing. He'd looked it over. He
4 thought it was a good thing. But he didn't know about
5 retroactively taxing the people for four years -- three or
6 four years before the thing happened. And that's what
7 happened, exactly.

8 If that's preferential treatment, I just can't
9 understand it.

10 SENATOR MELLO: Are you denying that there were \$4½
11 million of alleged taxes owed by you that were waived by this
12 bill?

13 MR. LANSDALE: Absolutely.

14 SENATOR MELLO: You're denying that?

15 MR. LANSDALE: I'm denying it.

16 SENATOR MELLO: Have you brought any lawsuit
17 against the Philadelphia Inquirer or anybody else?

18 MR. LANSDALE: I talked to my attorneys. I have
19 three or four firms of attorneys that work in different
20 areas. I'm in the oil business, and I'm in the land
21 development business. I have attorneys that are good in both
22 areas.

23 I have talked to all of them. Every one has said
24 not to take them on for a couple of million bucks, and then
25 end up with nothing. Just like General Westmoreland did. I
26 mean, I thought they were going to shoot General Westmoreland
27 for serving in Vietnam and leading our troops after the
28

1 newspapers got through with him and Walter -- not Walter
2 Cronkite, he's a good man. It's the other one that took
3 Walter Cronkite's place.

4 SENATOR MELLO: But according to this amendment in
5 the bill, the Internal Revenue Code, and I just want to read
6 a couple sentences. It starts out:

7 "In general, in the case of any
8 pre-1987 open year, the amendment
9 made by Section 1275(b) shall not
10 apply to any income derived from
11 transactions described in Clause 2
12 by one or more corporations which
13 were formed in Delaware on or about
14 March 6, 1981, which have owned one
15 or more office buildings in
16 St. Thomas, United States Virgin
17 Islands, for at least five years
18 before the date of enactment of this
19 Act."

20 Description of the transaction:

21 "The transaction described in this
22 clause are: the redemption of
23 limited partnership interests for
24 cash and property described in an
25 agreement as amended, dated
26 March 12, 1981, the subsequent
27 disposition of the property
28

1 distributed and such redemptions,
2 the interest earned before
3 January 1, 1987 on bank deposits, or
4 proceeds received from such
5 redemptions to the extent such
6 deposit is located in the United
7 States Virgin Islands."

8 It appears that language would not just be put on
9 into the Internal Revenue Code by any Member of Congress,
10 because it applies so specifically to a narrowly drawn area.
11 And according to the article, it was put in the tax law.
12 1986 was the revise of the tax law, but this came afterward,
13 I guess, as a modification.

14 The paper alleges that this loophole was put in for
15 your sole benefit.

16 MR. LANSDALE: Well, you asked me if I got anything
17 out of it: 4½ million, or a dollar, or anything else. And I
18 said no, absolutely not.

19 If you'll read that thing carefully -- I just about
20 know it by heart -- but if you'll read it carefully, you'll
21 find out that that applies to the United States' taxing
22 authority for the IRS. That doesn't apply to the Virgin
23 Islands' tax authority at all. And they're the ones that
24 have got the lawsuit against me. I am answering it with
25 them, and I hope to beat them.

26 SENATOR MELLO: The reason I was reluctant to do it
27 was because, first, I had to figure out does this have
28

1 anything to do with you being on the Board.

2 It's very narrow, I think. As Senator Petris
3 pointed out, you're dealing in horse racing; you're dealing
4 in gambling. There's situations where there are allegations
5 about using drugs and stimulants in the horses.

6 It seems to me that the Board really has to take a
7 very firm stand, an ethical one. And it appears that someone
8 having these allegations being made against him -- I see
9 you're a very forthright, upright person.

10 But what happened here, these allegations just
11 don't happen to the ordinary person on the street.

12 SENATOR CRAVEN: Well, Henry, I understand your
13 questioning; although, in my judgment, it is not germane to
14 the nomination, any more so than the fact that the
15 Philadelphia Inquirer is or was owned by Walter Annenberg,
16 who also owns Sporting News, which deals with horse racing,
17 too. But so what?

18 SENATOR MELLO: Well, Senator Craven, let me say
19 this.

20 We bring up a lot of things here that aren't
21 germane, because I think it's the Senate Rules Committee's
22 prerogative to try to deal in the confirmation process, to
23 make sure that people that are appointed, that we have the
24 advice and consent on, do meet the standards that we feel are
25 high and necessary.

26 I plan to vote for this person. I voted for him
27 before, but this happened since the last confirmation. I
28

1 just wanted to hear his reaction.

2 I think if I was sitting in your seat, I would have
3 a big lawsuit filed against the people that are making these
4 allegations if they're not true.

5 MR. LANSDALE: Well, Senator, I thought so, too,
6 until I finished talking with the attorneys that I've spent
7 millions of dollars on, all kinds of deals.

8 And they tell me, "If you like to throw your money
9 away, and you kind of get your kicks that way, Mister, just
10 go ahead and do it."

11 SENATOR MELLO: You talked to some good attorneys?

12 MR. LANSDALE: I have some good attorneys. You
13 know ex-Governor Brown; he's one of my attorneys and good
14 friend. He's a senior partner and a member of the Ball,
15 Hunt, Hart and Brown, and he's one of the advisors on this
16 thing.

17 You can't get newspapers, he said. Forget it.

18 SENATOR CRAVEN: Senator Beverly.

19 SENATOR BEVERLY: Mr. Chairman and Members, in the
20 Long Beach community, we know Mr. Lansdale as a successful
21 and ethical businessman and a very much respected community
22 activist.

23 I'm pleased to make the motion to confirm him.

24 SENATOR CRAVEN: Senator Beverly has moved the
25 appointee, Mr. Lansdale.

26 Any further questions or debate?

27 Anyone in the audience who wishes to comment?

1 There appears to be none.

2 Would you call the roll, please.

3 SECRETARY WEBB: Senator Beverly.

4 SENATOR BEVERLY: Aye.

5 SECRETARY WEBB: Senator Mello.

6 SENATOR MELLO: Aye.

7 SECRETARY WEBB: Senator Petris.

8 SENATOR PETRIS: Aye.

9 SECRETARY WEBB: Senator Craven.

10 SENATOR CRAVEN: Aye.

11 SECRETARY WEBB: Senator Roberti.

12 CHAIRMAN ROBERTI: Aye.

13 SENATOR CRAVEN: Five-zero.

14 Mr. Lansdale, thank you very, very much.

15 MR. LANSDALE: Thank you, sir.

16 Can I make a short statement?

17 SENATOR CRAVEN: You certainly may.

18 MR. LANSDALE: I'd like to say that I, Senator,
19 certainly invite your asking me about that. If you had not,
20 I would have been disappointed, if someone had not asked me.
21 Because it is germane. And what in the hell am I doing down
22 there, supposedly owing somebody 4½ million that I don't pay?

23 SENATOR MELLO: I feel having --

24 MR. LANSDALE: Absolutely you should have brought
25 it up, and I thank you for bringing it up, because it helped
26 me clear it up a little bit.

1 SENATOR MELLO: I feel better having asked it than
2 if I'd have sat here and not asked it.

3 MR. LANSDALE: Yes, sir. I appreciate it. I know
4 you're doing a thorough job.

5 And I think you, Senators, are doing a wonderful
6 job for the State of California.

7 [Thereupon this portion of the
8 Senate Rules Committee hearing
9 was terminated at approximately
10 2:45 P.M.]

11 --oo0oo--
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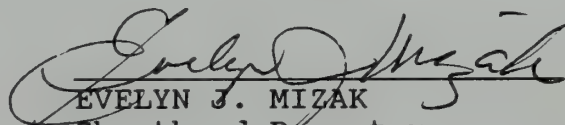
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I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 22nd day of March, 1990.


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17 2:05 P.M.

24 Reported by:

27 Evelyn J. Mizak
28 Shorthand Reporter

APPEARANCES

MEMBERS PRESENT

SENATOR DAVID ROBERTI, Chairman

SENATOR ROBERT BEVERLY

SENATOR HENRY MELLO

SENATOR NICHOLAS PETRIS

MEMBERS ABSENT

SENATOR WILLIAM CRAVEN, Vice Chairman

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

DORINDA V. HENDERSON, Director
Department of Fair Employment and Housing

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P-R-O-C-E-E-D-I-N-G-S

--oo0oo--

SENATOR PETRIS: Governor's Appointments, we have Ms. Dorinda Henderson, Director of the Department of Fair Employment and Housing.

Do you want to come forward. If you'll have a seat, either the right or the left, it doesn't matter. They're both hot seats in this setting.

We traditionally open by asking the nominee why she feels qualified to be appointed to this particular position. Do you want to tell us? We assume that you want to be appointed.

MS. HENDERSON: Certainly I do.

SENATOR PETRIS: You've been there for some months now, so tell us of your qualifications.

MS. HENDERSON: I've been there five months, as a matter of fact, in the capacity of the Director.

What I've done, honorable ladies and gentlemen, is to have prepared a package for you and to have caused it to have been presented to you so that I wouldn't take all your entire afternoon. But I'd just like to give you a little bit of information about some of my private life and some of my professional preparation for the position as Director.

The highest academic degree I've earned is the degree, Master's in Business Administration from Pepperdine University in Los Angeles County. I also hold certificates and accreditations, including a real estate diploma and a teacher's credential from professional and graduate schools. These

1 accreditations positioned me to serve in specialized areas of my
2 profession as a school teacher and as a banker.

3 I'm married. I have three grown children, all
4 married, and I have seven grandchildren.

5 My husband, Leo J. Henderson, a veteran of World
6 War II and a public accountant, holds the degree Master's in
7 Business Administration from the University of Southern
8 California. For twelve years immediately preceding his
9 retirement in 1985, he owned and operated a food stamp agency
10 under a contract with the Department of Public Social Services
11 of Los Angeles County. Before establishing that agency, he was
12 a project director of the Los Angeles Urban League, Head Start
13 State Preschool Program. Prior to that assignment, he was
14 controller for Family Savings and Loan Association of Los
15 Angeles. His retirement in 1985 was necessitated by the loss of
16 his vision.

17 I say all that to say that my interest and my
18 sensitivity to civil rights is occasioned by the quality of the
19 involvement of my family.

20 We live in Fair Oaks of Sacramento.

21 Ladies and gentlemen, today culminates the
22 realization of the dream that I brought with me to Sacramento in
23 1987. On August 1, 1987, I was appointed Deputy Director of
24 Administration of the Department of Fair Employment and Housing.
25 The day before, July 31, 1987, I retired from the Bank of
26 America, where I had spent 24 years. And in those 24 years, I
27 served California's largest bank in the following capacities:
28

1 small business loan specialist; real estate specialist; an
2 escrow officer in all types of escrow transactions including
3 bulk sales, liquor license, business opportunity, and real
4 property transfers.

5 I served in the bank's Trust Department, where I
6 accounted for the investments of major testamentary trust
7 portfolios in the bank's Southern California headquarters.
8 Also, there I managed the Employee Loan Department.

9 Leaving that position, I became one of the first
10 women to serve the bank as a bank examiner in its credit
11 portfolio. It was my responsibility to assure strict adherence
12 to federal, state, and local laws relative to a bank's asset and
13 loan condition.

14 You could understand why the banks are no longer in
15 such fine positions since I've left that position.

16 In 1969, there were certain consumer advocates who
17 attacked the banking industry on its lack of sensitivity to
18 protect consumers from questionable sale activities which were
19 financed by banks. Because of my background in all areas of
20 bank financing and consumer laws, I was tapped to design
21 programs and to deliver seminars to 140 branches of the Bank of
22 America to cause compliance with the the Federal Regulation Z,
23 regulations on fair credit reporting acts and laws, and laws
24 intended to facilitate credit to women and minorities.

25 Concurrently with these various assignments, from
26 time to time I was asked to serve the bank as a training
27 officer. I also served as a branch manager in the Venice-Santa
28

1 Monica area, as a project director in the Chula Vista area where
2 the bank was being accused of red lining.

3 You will recall that 1980 was a crisis time for real
4 estate developers. I positioned my developers to manage the
5 sales of their finished product through creative financing to
6 avoid a loss to the bank and its investors, a loss to the
7 developers and their investors, and to provide innovative
8 vehicles -- innovative purchasing vehicles for homebuyers.

9 Because of the continued downturn in the real estate
10 market in 1981, my assignment switched to investment officer for
11 major California corporations in the Wilshire District of Los
12 Angeles. There I invested in bankers acceptances, commercial
13 paper, government repurchases, trade acceptances, long-term debt
14 and equity issues, depending on the client's cash flow
15 conditions.

16 When the bank's fiscal and liquidity condition
17 required intense risk and asset management of its people, its
18 products and its programs in 1982, I was tapped as an assistant
19 vice president and manager to head up the Legal Investigations
20 Unit of the Corporate Security Division of Southern California.
21 There my job was to design programs and to develop staff, to
22 investigate threats against the bank's assets, to recommend
23 strategies for legal defense in conciliatory or adjudicatory
24 instances where legal action was eminent or threatened against
25 the corporation.

26 During my 24 years of service to the bank, I was
27 always aware of the need to perform as a responsible corporate
28

1 citizen with socioecomonic sensitivity, and also represent the
2 bank as a member to educational, professional, community and
3 ethnic organizations. And it was this attitude of social
4 concern, economic restraints and professional sensitivity that I
5 brought with me to the public sector when I joined the staff at
6 the Department of Fair Employment and Housing in 1987.

7 During the 26 months I served as Deputy Director of
8 Administration, I was always conscious of the need to provide
9 improved services to the people. I developed programs to
10 position the Administrative Services Division to become the
11 foundation for effective management, fiscal integrity, employee
12 development, and always to provide quality service to the
13 public.

14 Accordingly, I introduced a system of management
15 controls and staff development designed to sensitize
16 headquarters staff in the mission of the Department and the
17 legislative intent of allocated resources. This, I felt, would
18 assure effective communication internally and externally,
19 establish fiscal integrity, facilitate employee growth and
20 development, awaken job consciousness and pride in service, and
21 reduce cost without reduction in services. And thereby, I felt,
22 we could improve the quality of services rendered to the people
23 we serve.

24 I automated the entire Administrative Services
25 Division and the Office of Contract Compliance Services. I
26 installed FAX machines for expeditious communicating. The old
27 ten-key adding machines and typewriters were replaced by
28

1 personal computers, and the clerical and professional staff were
2 trained and cross-trained in hardware, software, and personal
3 computer capabilities in all functions vital to accomplishing
4 the mission of the Department of Fair Employment and Housing.

5 This automation resulted in the freeing up of human
6 resources from casual labor, and the reallocation of those
7 resources to case processing, thereby establishing the potential
8 for offering more services to the people without requesting more
9 fiscal resources. To wit, we are now able to accept for filing
10 the pregnancy cases, which for ten years the Department could
11 not find resources to address. And effective March 5th, 1990, I
12 announced a new policy: to accept all cases which complainants
13 attempt to file with us. This was possible because automation
14 reduced the demands upon personnel, reduced cost, and
15 streamlined operations. It streamlined our timeliness and the
16 integrity of the Department's support services, and trained
17 personnel were motivated to deliver more services.

18 I trained my unit managers in performance planning,
19 coaching, and periodic evaluation to encourage and to develop
20 leadership in all areas of accountability. I formed a Quality
21 Circle comprised of unit managers. This Quality Circle
22 encourages idea generation. It makes a critical review of the
23 Department's behavior, its programs and its policies. And it
24 recommends to management changes for improvement and creativity
25 in the quality of its services to employees and clients.

26 The Quality Circle is a significant management
27 achievement that I highly recommend to all political appointees.
28

1 It assures continuity in effective programs to the people when a
2 political appointee moves on. Further, managers' participation
3 in decision making accrue to the health of the organization and
4 its behavior.

5 I introduced my staff and trained them in the
6 academic model of management by objectives process. This model
7 focuses on the vision, the values, and the strategies of the
8 Department, and those are required to establish its mission. It
9 allows staff to focus on the needs of the people we are mandated
10 to serve, and the necessity to find innovative ways to deliver
11 those services economically and expeditiously.

12 It allows for accountability in all areas of
13 performance. It highlights employee contributions or the lack
14 of it. This causes a manager to recognize, respect, and reward
15 exceptional performance.

16 It follows, then, that this model is a motivater for
17 innovation and creativity, which leads to awareness in clients'
18 needs, and generates the proper attitude from staff; that is,
19 "I'm here to serve. I'll find a way to do so." It causes
20 managers to plan the employee's performance and to coach the
21 employee periodically. It eliminates the necessity for adverse
22 action against an employee. This improves employees morale and
23 builds the team spirit so necessary in exemplary performance.

24 Once I had conditioned the staff to improve the
25 quality of performance and services, I then instructed the
26 Program Evaluations Unit to critically evaluate the Office of
27 Compliance Programs. The Office of Compliance Programs reviews
28

1 those contractors doing business with the state to assure that
2 they have valid, effective, nondiscrimination, and/or
3 affirmative action programs.

4 Staff was trained to design seminars to educate
5 contractors for compliance with our laws. Again, to maximize
6 utilization of allocated resources, we taught the seminars at
7 Department Headquarters. This way, our new employees increased
8 their product knowledge by attending classes with the
9 contractors. They had an opportunity to note not only product
10 information, but also the contractors' questions and concerns.

11 By holding the sessions at headquarters, also, I
12 reduced transportation and accommodations expenses, while
13 auditing presenters for product delivery.

14 I next caused the staff to join trade and industry
15 liaison groups, and to participate in seminars designed to
16 promote women and minorities in the trades, and to sensitize
17 managers to subtleties in sexual harassment and other
18 discriminatory practices.

19 It was not unusual then, when, in 1988, I got a call
20 from women and minorities in Los Angeles complaining about
21 unequal employment practices and underrepresentation on the
22 Light Rail construction project. We investigated those
23 complaints, and we discovered that the Los Angeles County
24 Transportation Commission was the awarding agency for all
25 contracts to build the Rail project. But the Commission was not
26 a contractor with the state; therefore, they were outside our
27 jurisdiction for review and compliance.
28

1 I negotiated a contract with the Commission, and this
2 produced revenues to the Department, thus offsetting expenses
3 otherwise chargeable to our budget. Most importantly, though, I
4 brought them within our jurisdiction.

5 The contract provided for the Department to educate
6 and train the Commission staff in the Fair Employment and
7 Housing laws, the complaint process, the intake, investigation,
8 and processing of complaints, and caused staff of the Commission
9 to bring their contractors into compliance. To properly perform
10 this contract, it was necessary to have the Public Utilities
11 Codes incorporated into our law by reference in the contract,
12 and our Fair Employment and Housing laws incorporated into their
13 statutes by reference.

14 This required more training. And although such was
15 provided on both sides, I soon discovered that full compliance
16 by these contractors and effective performance by my staff would
17 require more sophisticated and focused training. Accordingly, I
18 sent the Administrator of the Office of Compliance Programs and
19 one of his compliance officers to a seven-day training seminar
20 in the State of Kentucky. This seminar explored the recent
21 United States Supreme Court decisions and their impact on
22 affirmative action plans in the various states. It also showed
23 the benefits of standardization and automation in administering
24 compliance programs and the requirements of a properly
25 structured set-aside program.

26 Shortly thereafter, we recognized that we had become
27 stronger and more effective in the enforcement of compliance
28

1 with our laws through the work sharing relationship with the Los
2 Angeles County. You see, prior to joining of forces with Los
3 Angeles, a contractor disbarred by the State of California could
4 no longer bid on a contract with the state, but that was the
5 extent of our enforcement authority. But that contractor was
6 not precluded from going south and doing business with Los
7 Angeles County, where the major contracts abound.

8 Our work sharing contract now disbars a contractor
9 from bidding on both the state and the Los Angeles County
10 Transportation contracts when so ruled by the Department of Fair
11 Employment and Housing.

12 Additionally, by forming that contractual
13 relationship with Los Angeles County, we generated a quarter of
14 a million dollars in revenues to improve and extend our
15 services, while at the same time, increase staff growth and
16 development through exposure to new horizons, sophisticated
17 equipment, and new laws.

18 Recognizing the potential for affirmative action
19 response to state, county, and federal jobs, I next entered into
20 a Memorandum of Understanding with the 9th Regional District of
21 the Office of Federal Contract Compliance. Through this MOU, we
22 now have: a work sharing agreement for the reciprocal and
23 continuous training of both staffs; for the acceptance of each
24 other's reports as prima facie evidence of compliance or
25 noncompliance in the contracting community; for standardization
26 of state and federal reports. This means that when the feds
27 audit a contractor, the report is accepted by the state with
28

1 minimal on-site follow-up by us. It also means that disbarment
2 by the state now has a three-way effect. When we disbar a
3 contractor for noncompliance with our affirmative action laws,
4 that contractor is now considered disbarred by the state, by the
5 feds, and by Los Angeles County.

6 The benefits to the contractor are: elimination of
7 duplication; elimination of confusion; a lot of unnecessary
8 paperwork; and interruption of the contractor's primary business
9 activity.

10 From this relationship, we further participated in a
11 full week's training at federal expense to learn their Code of
12 Federal Regulations under which the feds operate.

13 Our first joint on-site review of a contractor was on
14 IBM. Under the Memorandum of Understanding, the review was done
15 in three weeks instead of the usual three months. The resources
16 saved here were redirected to other services to the
17 people, again, accomplishing our goal of efficient utilization
18 of human and economic resources by joint contracting with
19 another governmental agency.

20 Not only that, but since we found such a high quality
21 of contract compliance at IBM, and noted that the Department of
22 Labor had awarded them the Workforce 2000 Award for their
23 exemplary work with women and minorities, we've asked that they
24 sponsor an all-day training for the minority, the small, women,
25 and disadvantaged business entrepreneurs at no expense to the
26 state. That seminar will demonstrate effective methods of
27 compliance which lead to professional and good corporate
28

1 citizenry, and the session is scheduled for the last quarter of
2 this fiscal year.

3 I am currently working with the Greater Sacramento
4 Area Plan, a plan similar to the Los Angeles County
5 Transportation Commission, to enhance equal employment
6 opportunities for this county. The alternative, ladies and
7 gentlemen, to these activities is to wait for aggrieved
8 employees to come into our various district offices and to file
9 individual complaints with us, then to exhaust our resources in
10 the processing of these individual complaints.

11 These adverse individual actions are sometimes
12 necessary. They're very effective. But they're slower
13 processes than educating the employer. They also exhaust our
14 resources and limit our effectiveness and our image. The people
15 are much better served through the programs that the Department
16 has embarked upon.

17 Internally, I have caused the review of every
18 contract for goods and services acquired by our Department to
19 assure our compliance with AB 1933. Under my administration,
20 the Department has positioned itself to be prepared to extend
21 its contractor review processes yet another dimension if we're
22 required to do post-certification in the implementation of
23 AB 1933.

24 Our continuous review of the times and of our mission
25 require a readiness position to meet the needs of the people we
26 serve. I know that I can do all these things and still fall
27 short of the mandated objective: to address the current trend
28

1 of intolerance and violence towards minorities and other
2 protected groups on our campuses, in our streets, and the
3 unequal employment practices in the workplace.

4 . My basic approach to solving these problems is
5 through education. I have personally designed programs and
6 developed seminars for use internally and externally to raise
7 public awareness to oppose bigotry, racism and injustice. I
8 have developed liaisons with other governmental agencies,
9 educational institutions, religious and community organizations,
10 advocacy groups, and the private sector to get their support in
11 addressing these threats to California's citizens and its
12 economy.

13 Additionally, I have stressed an open door policy to
14 all.

15 All this I did because of the dream I brought with me
16 to Sacramento in 1987. That is, if I served our people well,
17 then one day I would stand before you, asking you to confirm me
18 for the position that I now hold: that is, the Director of the
19 Department of Fair Employment and Housing.

20 I feel, honorable ladies and gentlemen, that I have
21 done the best darn job a person could do, and I urge you to vote
22 positively on my confirmation. And thank you for this time to
23 speak with you.

24 CHAIRMAN ROBERTI: Thank you very much, and we
25 appreciate your testimony.

26 Senator Mello has a question.

27 SENATOR MELLO: I enjoyed hearing your presentation.
28

1 There's no doubt you come to the job with a lot of experience
2 and a commitment to try to improve things.

3 I think the Department, over the years, has really
4 had problems, and these problems are common in the private
5 sector as well as state. I'm going to address two different
6 areas.

7 First, I want to know, because of your serving with
8 Bank of America for many years in executive positions, as I
9 recall, some years ago they had a major crisis with employees
10 because of discrimination, affirmative action. It seems to me
11 they had to settle with whomever was the agency involved.

12 Did you have any role in that situation?

13 MS. HENDERSON: Yes. I'm very, very familiar with
14 that.

15 I'm the beneficiary of the Women's Trust in Wells vs.
16 Bank of America, where three women sued the bank in San
17 Francisco because women with degrees were not paid the same
18 wages that their male counterparts with similar degrees were
19 paid. Neither were they promoted to positions according to
20 their academic background.

21 So, in the late '60s, these three women filed that
22 action, and three trusts were set up. I'm the beneficiary of
23 two of these trusts. One, I was a woman with a degree; I was a
24 school teacher when I came to the bank. So, I came in to the
25 Trust Department, and I worked with wills and probates, and I
26 possibly could have been trust administrator instead of an
27 account preparer.
28

1 Secondly, I was not promoted into the overseas unit.
2 I was a domestic bank examiner. So, I came under that trust
3 where women were not allowed to participate in international
4 bank examination.

5 SENATOR MELLO: So, you were a part of the action
6 that was brought against the bank.

7 MS. HENDERSON: I was not a part of the action. I
8 was a beneficiary of the consent decree.

9 Women had an opportunity to exclude themselves. I
10 did not exclude myself.

11 SENATOR MELLO: You were in sympathy with that action
12 taken by the women's group?

13 MS. HENDERSON: Well, of course.

14 SENATOR MELLO: I want to go over a serious area.
15 You could just comment on it briefly, because I know Senator
16 Petris really has been a leader in this whole area in trying to
17 bring about needed legislation.

18 The concern I have is in the hiring of the
19 handicapped and the lack of promotion thereof. Women earn 60
20 percent of what men earn, as you touched on, for the same
21 identical jobs. There's a 100 percent increase in charges of
22 sexual harassment brought by employees in the state, in state
23 service, and reported incidents of sexual harassment. Problems
24 in maternity leave, and I guess this will probably be up to the
25 Legislature and administration to really define how those
26 parameters work. And the whole area of affirmative action, and
27 minority recruitment, and trying to balance out what we haven't
28

1 done over the years. There's a much lower percentage of Blacks
2 working than they are as a percentage of the population.
3 Hispanics are underrepresented, as are Asians and other
4 different ethnic groups.

5 I'd just like to hear if you're going to take real
6 strong action in all of these areas, and try to turn it around
7 so the complaints will go down and we'll actually bring equity
8 to this entire process. I think, unfortunately, we're getting
9 too large a number of incidents that are happening in state
10 service that should not be tolerated.

11 MS. HENDERSON: At this time, the Department is
12 pursuing an action against the State Personnel Board on behalf
13 of the Blacks and Hispanics because of the entrance exam to the
14 professional ranks, the Analyst Exam. We're pursuing that
15 aggressively.

16 I'm not quite sure -- I'm not a lawyer, but I'm not
17 quite sure how much I can say about that action that's under
18 consideration at this time.

19 SENATOR MELLO: What about the pay comparability?
20 Now women are paid 40 percent less than men.

21 Is there anything you can do to bring about --

22 MS. HENDERSON: Within the state, pay is rendered
23 according to qualifications, and sex is not regarded. For
24 example, an analyst is an analyst, a consultant is a
25 consultant.

26 Outside of the court, we did have an action earlier
27 on against Bank of America, as a matter of fact, which was
28

1 settled because the females -- most tellers are females. The
2 tellers brought an action that the couriers, who are mostly
3 male and had a comparable standard of responsibility, were paid
4 more than the female clerks. That matter was settled by the
5 bank.

6 What we have a problem with in the Department is that
7 we cannot go after the comparable worth issue. We do look at
8 whether the action by the employer implies discrimination
9 because of sex.

10 Now, we have taken on the County of Madera in the
11 instance where women who were sheriffs but were called matrons,
12 and did the exact same work that a sheriff did, were paid less
13 than that male counterpart that was called a sheriff. We
14 considered that to have been sex discrimination, and we
15 prevailed.

16 SENATOR MELLO: You said an analyst is an analyst,
17 but I think if you look at the individual cases, you'll find
18 that women analysts are making less than men analysts, because
19 of failure to be promoted, and failure to be recognized for
20 their comparable ability to perform the same tasks for the same
21 amount of pay.

22 I really think we have to do something about it in
23 the Legislature, but I think you can provide the kind of
24 leadership to bring about better equity in pay, and better
25 equity as far as the standards the people are working under.

26 MS. HENDERSON: One of the things that I've done,
27 I've prepared for the agency and its twelve departments under
28

1 our agency an affirmative action plan. And my concern was a lot
2 more than parity. I'm not a proponent of parity as such.

3 I do believe that progression in the organization is
4 just as important as parity. So, what I had was a plan to allow
5 women and minorities to enter the organization, and to go up in
6 the organization, and to be reflected at all levels of
7 responsibility all the way up to the top professional ranks.
8 And I've got such a program that I've designed, and I
9 demonstrated that program to the agency in the presence of its
10 twelve affirmative action officers. That was one of the first
11 things I did when I came aboard.

12 In my own Department, I've structured a program so
13 that there is job rotation for women and minorities. And we're
14 very proud of the reflection in our professional ranks, where
15 we've taken people out of data processing, and we've made
16 consultants out of them. We've taken people out of the
17 executive secretaries' ranks, and we've made compliance officers
18 out of them.

19 As a matter of fact, our own Asian secretary,
20 executive secretary, was one of the first people to have gone
21 away to Kentucky to attend that seminar I talked about, and was
22 the first Filipino to become a compliance officer in the State
23 of California. Prior to that, she was a secretary.

24 SENATOR MELLO: Thank you.

25 MS. HENDERSON: You're quite welcome.

26 CHAIRMAN ROBERTI: Are there any other questions?

27 Then do I hear a motion?
28

SENATOR BEVERLY: Move we recommend the confirmation to the Floor.

CHAIRMAN ROBERTI: Senator Beverly moves confirmation
be recommended to the Floor.

Is there any opposition in the audience? Seeing none, the Secretary will call the roll.

SECRETARY WEBB: Senator Beverly.

SENATOR BEVERLY: Aye.

SECRETARY WEBB: Senator Mello.

SENATOR MELLO: Aye.

SECRETARY WEBB: Senator Petris.

SENATOR PETRIS: Aye.

SECRETARY WEBB: Senator Craven. Senator Roberti.

CHAIRMAN ROBERTI: Aye.

The vote is four to zero; confirmation's recommended to the Floor.

Congratulations, Ms. Henderson. We look forward to working with you.

MS. HENDERSON: Thank you very much.

[Thereupon this portion of the Senate Rules Committee hearing was terminated at approximately 2:40 P.M.]

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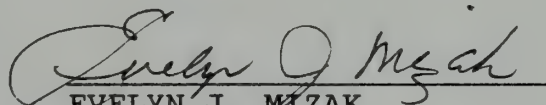
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That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 29th day of March, 1990.


EVELYN J. MIZAK
Shorthand Reporter

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APPEARANCES

MEMBERS PRESENT

SENATOR DAVID ROBERTI, Chairman

SENATOR ROBERT BEVERLY

SENATOR HENRY MELLO

MEMBERS ABSENT

SENATOR WILLIAM CRAVEN, Vice Chairman

SENATOR NICHOLAS PETRIS

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

WILLIAM T. BAGLEY, Member
The Regents of the University of California

MEREDITH KHACHIGIAN, Member
The Regents of the University of California

SENATOR MARIAN BERGESON

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CHAIRMAN ROBERTI: Governor's Appointees, William T. Bagley, Member of the Board of Regents of the University of California.

MR. BAGLEY: You really want me up here?

CHAIRMAN ROBERTI: You've got to come up here.

MR. BAGLEY: Thank you, Mr. President, sir.

CHAIRMAN ROBERTI: Instead of asking you why you feel you're qualified to assume this position, you might tell us what the Board of Regents is doing to further higher education in California.

To get specific, and an issue that has come up rather heavily in my district is the whole question of Asian admissions, and the fear that we have a policy which is not a clear policy of the University. Each department seems to have a policy, but the fear of some people, especially, I would say, Asians, is the policy in each department varies as to who applies.

MR. BAGLEY: I haven't seen the varying policies.

CHAIRMAN ROBERTI: Is there a uniform policy?

MR. BAGLEY: I am not, obviously, the person to articulate that at this point. We've had some discussions. I've been to about four meetings, four or five, from August forward because there were a couple months we didn't meet.

1 The problem is there. There's no question. The
2 problem is over achieving on the part of the Asians. And, of
3 course, there's under achievement on the part of other parts of
4 our society. And if you simply applied the 12½ percent rule --
5 12½ percent being the highest 12½ percent from high school --
6 into the U.C. system, and applied that across the board with
7 blinders on, you could not, you could not, institute any type of
8 affirmative action.

9 CHAIRMAN ROBERTI: I also understand the difficulty.

10 MR. BAGLEY: I know you do.

11 CHAIRMAN ROBERTI: On the other hand, sometimes some
12 departments institute a program of considering nonacademic
13 items, which is legitimate.

14 MR. BAGLEY: Yes.

15 CHAIRMAN ROBERTI: Extracurricular activities. But
16 there's a fear that from department to department, that varies.

17 MR. BAGLEY: That is what I say I've never seen.
18 That's not for me to say that it isn't there. I simply haven't
19 seen it.

20 I have seen, I have heard -- perhaps on a positive
21 note -- a policy, an effort, that's been before the Board and
22 acted upon, or at least heard and acknowledged as an
23 administrative activity, and that is an outreach program to the
24 high schools so that you can encourage people to think about and
25 work toward attending something that needs to be done in the
26 area where you have a very disproportionate group of applicants
27 compared to the population spectrum.
28

1 CHAIRMAN ROBERTI: I guess mainly what I wanted to
2 put into your thinking cap is that fact that there is a strong
3 fear on the part of a large number of people, mainly
4 representatives of the Asian community, that extracurricular
5 activities is either considered or not considered as a way of
6 culling out their applications.

7 By and large, for reasons it would take us a year to
8 discuss, Asians generally do much better on the academics, and
9 on extracurricular, that's not their strongest suit. Hence,
10 departments institute extracurricular as a criteria, not on a
11 uniform basis, which would be fine, but on a department by
12 department basis.

13 MR. BAGLEY: Let me respond by saying, seriously,
14 that's a good question, and there ought to be an answer. I
15 don't have it. From my own standpoint I want to know the
16 answer, and I will let you know the answer.

17 CHAIRMAN ROBERTI: And I know your commitment to fair
18 treatment, so I am throwing this one out because it's serious.

19 MR. BAGLEY: I don't know that the departments choose
20 their applicants. That I haven't seen.

21 Mind you, I'm a freshman.

22 I will find out, and I'll write you, and we'll do
23 something about it if it's wrong.

24 CHAIRMAN ROBERTI: Very good. Thank you.

25 Are there any other questions of Mr. Bagley?

26 One other one. This doesn't go to your confirmation
27 because we're at the end of the Governor's term, and we all know
28

1 of your outstanding qualifications, which, having worked with
2 you over a number of years, are patently obvious.

3 But the Governor has not attempted to make
4 appointments that reflected the disparity in the state.

5 MR. BAGLEY: I read a column on that subject the
6 other day. I forget where I read it.

7 CHAIRMAN ROBERTI: Yes.

8 The fact of the matter is, we requested of the
9 Governor about a year ago that he do this in the State CSU
10 system, and he did. He has made a major attempt to have the
11 appointments reflective of the diversity.

12 The column just brought out what, I think, we have
13 not done as far as the Board of Regents is concerned. That is,
14 impose the same request upon the Governor.

15 I guess I'm not directing that at you.

16 MR. BAGLEY: Let me -- I would be remiss if I didn't
17 say something, and it is this, seriously and then a little
18 facetiously.

19 Other than Mr. Leach, whom I do not know, the last
20 three appointees include Steve Nakashima from San Jose, include
21 Meredith Khachigian, a lady and applicant in her own right,
22 accomplished in her own right who happens to have a halfway
23 decent husband, but even if she didn't, she would be qualified,
24 most qualified.

25 CHAIRMAN ROBERTI: We've confirmed her.

26 MR. BAGLEY: You can substitute the roll call with a
27 good roll call.
28

1 But there is a person of Japanese heritage, a female
2 of some significance and consequence in the state. She's done a
3 lot of good work. And you know, Dave, I'm three-fourths
4 Italian.

5 CHAIRMAN ROBERTI: A strong suit.

6 MR. BAGLEY: And we are the --

7 CHAIRMAN ROBERTI: You wouldn't know by your last
8 name, but --

9 MR. BAGLEY: My father changed that. You can attack
10 me, but don't attack my father, sir.

11 SENATOR BEVERLY: Move we recommend approval of the
12 confirmation.

13 CHAIRMAN ROBERTI: Senator Beverly moves the
14 confirmation.

15 Is there any opposition?

16 Secretary, call the roll.

17 SECRETARY WEBB: Senator Beverly.

18 SENATOR BEVERLY: Aye.

19 SECRETARY WEBB: Senator Mello.

20 SENATOR MELLO: Aye.

21 SECRETARY WEBB: Senator Petris. Senator Craven.
22 Senator Roberti.

23 CHAIRMAN ROBERTI: Aye.

24 The vote is three to zero; confirmation is
25 recommended to the Floor.

26 MR. BAGLEY: This is a sad occasion. I probably
27 won't get back for any more confirmations.
28

1 CHAIRMAN ROBERTI: But this was twelve years.

2 MR. BAGLEY: Thank you, gentlemen.

3 CHAIRMAN ROBERTI: You're welcome.

4 Ms. Khachigian, Meredith Khachigian, Member of the
5 Regents of the University of California.

6 SENATOR BERGESON: Mr. President, if I might take
7 this liberty to introduce --

8 CHAIRMAN ROBERTI: Please do, Senator Bergeson.

9 SENATOR BERGESON: -- and lend my very strong support
10 or the appointment of Meredith Khachigian.

11 I know Meredith to be eminently qualified. She is a
12 product of the U.C. system, and I know of no better
13 qualification, certainly, to prepare her. She's also been very
14 actively involved as an alumni, and very active also in the
15 Master Plan that she played a very leading role in and was a
16 major figure in coming forward with the reforms that are now
17 being approved by the Legislature.

18 I heartily commend her to you and recommend that you
19 adopt her appointment.

20 CHAIRMAN ROBERTI: Thank you, Senator Bergeson.

21 Ms. Khachigian, I think I'll ask you the same
22 question to pose the point, at least from my perspective.

23 It is a very important issue, first because of the
24 composition of the State of California, also the district I
25 happen to represent, and the problems come to my attention on a
26 frequent basis, as they may do to you as a Member of the Board.
27
28

1 But there is a great deal of unhappiness especially
2 on the part of Asian-Americans on what they think is arbitrary
3 use of criteria in applications being accepted in the University
4 of California. And the main concern, not the only one, is the
5 use of things extraneous to academic performance, but very
6 important in evaluating a young person who's entering the
7 University system, that it seems that these things, in the minds
8 of some, get heightened consideration, depending on how many
9 Asians have already been admitted to a given department.

10 I think a number of years ago, there was a some
11 correspondence with applicants and the University of California
12 at Berkeley.

13 MS. KHACHIGIAN: Right.

14 CHAIRMAN ROBERTI: Unfortunately, the correspondence
15 indicating that was the policy. I'm sure it's no longer the
16 policy, if it really ever was.

17 MS. KHACHIGIAN: No.

18 CHAIRMAN ROBERTI: But it is a major consideration
19 that we feel, as politicians, and I'm sure you feel on the Board
20 of Regents.

21 I would like to get your opinion on that.

22 MS. KHACHIGIAN: Thank you.

23 I'm certainly sympathetic to the issue.

24 I'm not positive of the exact figures, but it's my
25 understanding that at Berkeley currently, at least 22 percent of
26 the entering class is Asian. So, that's certainly, you know,
27 something that we're proud of. And that their graduating
28

1 percentage of the total population is like 8 percent of the
2 total make-up of the graduating seniors. So, they certainly
3 have taken their rightful position at Berkeley and at other
4 campuses.

5 If you can call it a problem, I guess it would be
6 better to call it a challenge for the Asian population is,
7 they're so successful and academically. And we all commend them
8 for that. But because they are so successful academically, they
9 are certainly qualified in such big numbers, and it is our goal
10 to have an entering freshman class that reflects the entire
11 population in California.

12 So, we try to spread things out with other than
13 academic concerns in that entering class, although that is our
14 biggest concern, certainly, in our admission process.

15 It's a problem that, as President Gardner says, if
16 anybody understands the issue, they don't have an answer. If
17 they have an answer, they don't understand the problem.

18 I'm certainly sympathetic.

19 CHAIRMAN ROBERTI: All this has to be done within the
20 framework of getting a representative student body.

21 I think the main concern is that whatever criteria
22 are established, I would tend to think that they have to be
23 uniform.

24 MS. KHACHIGIAN: Right.

25 CHAIRMAN ROBERTI: Whether it's academic or academic
26 plus something else, everybody going in should know that these
27 are the criteria.
28

1 MS. KHACHIGIAN: Right.

2 MR. BAGLEY: Mr. President.

3 CHAIRMAN ROBERTI: Regent Bagley.

4 MR. BAGLEY: I'm interrupting to be helpful.

5 I was just speaking to Steve Arditti.

6 Undergraduate admissions are not done departmentally,
7 so there can't be this unfairness or unequal treatment.

8 Graduate departments are done departmentally.

9 CHAIRMAN ROBERTI: That's a good point.

10 Any other questions of Ms. Khachigian? Senator
11 Mello.

12 SENATOR MELLO: I'd like to follow a comment.

13 You said they do so well in school, the Asian
14 community, so what's wrong with having them be represented more?
15 I think there's one Member of the Board of Regents now, but they
16 do have 25 percent of the freshman class at Berkeley that are
17 Asians.

18 MS. KHACHIGIAN: Actually, we have two Asian
19 representatives on the Board of Regents. We have the new Regent
20 Nakashima, and then we have Yori Wada who is, I think, a Brown
21 appointee who's been on that Board several years now, many
22 years.

23 SENATOR MELLO: But there's a large Hispanic
24 population in the state now, some 8 million. There's many other
25 ethnic groups, Blacks. Yvonne Burke, I guess, is still on
26 there, a Jerry Brown appointment.

27 MS. KHACHIGIAN: Right.
28

1 SENATOR MELLO: He disappointed a gentleman in
2 Salinas in my district, Mr. Leach, that's a great supporter,
3 great contributor to the Republican Party, and I just think
4 there's nothing wrong with that. There's some Democrats that
5 contribute also.

6 But the point is, our University is so important to
7 the state, to the whole world, because at one time we were
8 number one, looked at around the whole world. I don't say we've
9 slipped very much, but I think that we're not what we used to
10 be.

11 I think the greatness is in that we can excel in
12 providing quality education for people.

13 I don't know what control we have over the
14 University, other than we have the budget, but it's sort of
15 routinely passed. The Regents really have the power of running
16 our University.

17 We're not reaching out and attracting Hispanics as we
18 should.

19 MS. KHACHIGIAN: You mean as far as the Regents, the
20 appointments, are concerned, or as far as students?

21 SENATOR MELLO: As far as students.

22 You're charged with the policy of running the
23 University. What kind of programs of outreach do you have
24 trying to bring more Hispanics in? The dropout rate is 42-45
25 percent in high school. Very few go to college, and the ones
26 that get into college, very few of them graduate. They really
27 need a hand.
28

1 MS. KHACHIGIAN: Senator, I do feel like we have made
2 great strides in this. And I do not deny that there is
3 certainly a lot more to be done, but I feel that our outreach
4 programs have gone -- I mean, we're going down to the junior
5 high level as far as identifying potential University students,
6 and then trying to provide them access: mentorship programs,
7 tutoring programs all the way through. And then that follows
8 all the way through the University level and postgraduate work.

9 I was just at a conference in San Diego on
10 affirmative action, and it just -- yes, I couldn't agree with
11 you more that we could do a lot more. But I think that we are
12 very aware of the problem and in making strides in this. I feel
13 that positive about what we have achieved in like the past eight
14 years, and I think that it's getting better all the time.

15 One of the -- the student Regent that is just going
16 off the Board, Guillermo Rodriguez, is a student of this
17 outreach program, and he testified to that at the last meeting.
18 And so -- and he is a student at Berkeley.

19 So, I do think we are making strides. He goes and
20 speaks to groups, and there's a lot of programs that are being
21 put into effect very effectively.

22 SENATOR MELLO: Well, maybe you have the feeling that
23 things are there, but if you look at the results, the University
24 is not doing the kind of excellence in higher education that we
25 once achieved.
26
27
28

1 I know Jerry Brown appointed at lot of his friends, I
2 guess, to the Board of Regents. I guess each Governor does the
3 same thing.

4 I know I've been reading about your husband. He's
5 been a speech writer for Governor Deukmejian a long time. So,
6 from that intro, I'm not saying you're not qualified in your own
7 right, but it's sort of a family of close friends of the
8 Governor that gets the nod to serve on the University.

9 This gentleman Leach will be up here pretty soon. To
10 my knowledge, he hasn't involved himself too much in education
11 in my area. He's been more of an agricultural person.

12 CHAIRMAN ROBERTI: I agree with what you're saying,
13 Senator Mello, but I might interject that it's been thus on the
14 Board of Regents.

15 I think Ms. Khachigian is very qualified, but the
16 area from which people are selected, ever since, I think, any of
17 us can remember politics in California, has been a narrow group
18 of people that the Governor's selected.

19 SENATOR MELLO: That's very true.

20 I voted for you before. If you don't have my vote
21 here today, you're in big trouble, and you're not in trouble as
22 far as I'm concerned.

23 MS. KHACHIGIAN: Thank you.

24 SENATOR MELLO: I'm just saying that we all should be
25 thinking about the diversity in California, and the fact that we
26 have an opportunity to really fulfill the kind of education that
27 we want and dream for all of our students.
28

1 I just hope the Regents are not so-called Siamese
2 cats that they sort of all vote the same way, and they don't
3 challenge the system --

4 MS. KHACHIGIAN: I don't see that, Senator.

5 SENATOR MELLO: I just hope that the next Governor
6 will try to bring about these kinds of changes that will better
7 represent our entire demographic community in California.

8 The only way that Hispanics and Blacks and Asians can
9 be represented is by having those people that go there. I
10 happen to be Portuguese, which is considered one of the Latin
11 communities, but I can't represent fully Hispanics because I
12 haven't shared in their life, culture, and struggle, even though
13 I'm very close to it.

14 So, they need their own people in places where
15 decisions can be made.

16 MS. KHACHIGIAN: Absolutely.

17 CHAIRMAN ROBERTI: Is there any opposition in the
18 audience?

19 SENATOR BEVERLY: Move the approval.

20 CHAIRMAN ROBERTI: Senator Beverly moves that the
21 confirmation be recommended to the Floor.

22 Secretary will call the roll.

23 SECRETARY WEBB: Senator Beverly.

24 SENATOR BEVERLY: Aye.

25 SECRETARY WEBB: Senator Mello.

26 SENATOR MELLO: Aye.
27
28

1 SECRETARY WEBB: Senator Petris. Senator Craven.
2 Senator Roberti.

3 CHAIRMAN ROBERTI: Aye.

4 The confirmation is recommended to the Floor.
5 Congratulations.

6 MS. KHACHIGIAN: Thank you very much.

7 [Thereupon this portion of the
8 Senate Rules Committee hearing
9 was terminated at approximately
10 2:35 P.M.]

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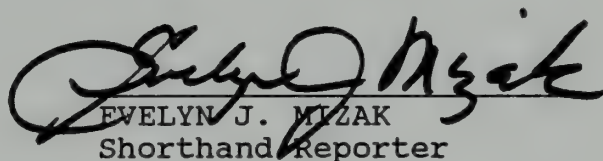
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I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 5th day of April, 1990.


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17 2:00 P.M.

24 Reported by:

27 Evelyn J. Mizak
28 Shorthand Reporter

APPEARANCES

MEMBERS PRESENT

SENATOR WILLIAM CRAVEN, Vice Chairman

SENATOR ROBERT BEVERLY

SENATOR NICHOLAS PETRIS

MEMBERS ABSENT

SENATOR DAVID ROBERTI, Chairman

SENATOR HENRY MELLO

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

WILLIAM J. JOHNSTON, ED.D., Member
California State Lottery Commission

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P-R-O-C-E-E-D-I-N-G-S

--oo0oo--

SENATOR CRAVEN: Today we have the Governor's Appointee appearing Dr. William J. Johnston, Member of the California State Lottery Commission.

Dr. Johnston, if you'll come up and be seated there.

DR. JOHNSTON: Thank you.

SENATOR CRAVEN: Tell us, as we ask all of the Governor's Appointees to do, why you feel that you are qualified for this job. Perhaps you could tell us a little bit about what you've done since you been in that job.

DR. JOHNSTON: Thank you, Senator.

SENATOR CRAVEN: You're welcome, sir.

DR. JOHNSTON: As stated here, I'm William Johnston. I've been a Member of the Lottery Commission since day one.

Candidly, frankly, I'm very proud of the accomplishments. The staff -- we reviewed today our gross sales to this point in time: 10.5 billion is the gross sales over the period of the Lottery. We have given public education, we will give with the completion of this year, \$4 billion.

As a former school man, I'm very pleased to be a part of an activity that helps the schools in this manner.

SENATOR CRAVEN: Very well.

Do any of the Senators have any questions of Dr. Johnston? Senator Petris.

SENATOR PETRIS: You started in what month in '85?

DR. JOHNSTON: I think it was January, Senator.

1 SENATOR PETRIS: You're a pioneer.

2 DR. JOHNSTON: I'm the original. John Price and I
3 are the only two remaining original appointees.

4 SENATOR PETRIS: I have to confess, I've never bought
5 a lottery ticket. I opposed the whole damn thing, and I haven't
6 bought one.

7 But my wife buys them regularly, and she asked me to
8 ask you how come she's never won anything?

9 [Laughter.]

10 DR. JOHNSTON: Right after this meeting, I'll be glad
11 to give her a call.

12 [Laughter.]

13 SENATOR PETRIS: I had a couple of questions.

14 There were a couple of glitches along the way, which
15 everybody, of course, will expect in a system that's so vast.

16 During the earthquake, I never got it clear just
17 whether the earthquake created some problems with some of the
18 computers or not. Can you --

19 DR. JOHNSTON: In the Bay Area, we had some
20 electrical, you know, problems, services to the lines. But
21 overall, not a major problem.

22 One, I think, just a recent date a few weeks ago when
23 we had some 50 million going, in a given day our transactions
24 were absolutely incredible, astronomical. I find it hard to
25 believe that we're able to handle the volumes of money,
26 approaching \$50 million in one day, and not have a single
27 problem.
28

1 SENATOR PETRIS: It's remarkable.

2 DR. JOHNSTON: The technology is so advanced and so
3 remarkable, we're the number one lottery state in the United
4 States at this time. In fact, we're number five, I think, in
5 the world.

6 SENATOR PETRIS: How much?

7 DR. JOHNSTON: Number five: Spain, France, Japan,
8 Argentina, and then the State of California.

9 SENATOR PETRIS: You say 10 billion since '85, and
10 that's almost 2 billion a year.

11 DR. JOHNSTON: Senator, this year it'll be over 2.6
12 billion in income. Actually, it's more than I could even have
13 anticipated when we began the Lottery, and none of us had any
14 lottery background or experience.

15 SENATOR PETRIS: Do you get a lot of letters or
16 inquiries from the public about why there continue to have to be
17 school taxes when the Lottery was supposed to do everything?

18 I find a tremendous amount of misconception out
19 there, even though during the campaign, I thought it was made
20 very clear by the critics that --

21 DR. JOHNSTON: It is supplemental.

22 SENATOR PETRIS: -- it is less than five percent, and
23 that's about what it's been.

24 DR. JOHNSTON: Senator, we try to inform the public
25 that we understand that Lottery funds are only 3-4 percent of
26 typical school budgets, and that it's distributed throughout the
27 state. It's about \$178-180 per student.
28

1 It does represent, perhaps, 20,000 full-time teachers
2 each year. It's supplemental, and it does help.

3 There is still some confusion about, you know, the
4 resources. Perhaps with the passage of Prop. 98, where there's
5 defined monies for schools, it's easier to explain that Lottery
6 monies are on top of formulas that support the schools.

7 SENATOR PETRIS: Every time we get somebody up for
8 confirmation, we get the same questions regarding the system. I
9 understand that the staff pursues this rather diligently to find
10 out how they're working in other parts of the world, and what's
11 the best marketing, and so forth.

12 I'd like to get your answer to the question that we
13 often get, and that is, some people feel that giving these
14 staggering, astronomical prizes is not as good as a large number
15 of small ones, even if it means, by small, a million or two
16 million at a time.

17 Now, one of the nominees and members said that the
18 research has indicated that, from the standpoint of marketing,
19 when you go for the big numbers, it's like a big magnet and just
20 attracts more and more buyers.

21 But the complaint persists that it would be better to
22 have a whole bunch of \$100,000 prizes, and 200 and 400, and so
23 forth, and maybe some millions scattered here and there.

24 Can you give me a reflection of the current state of
25 information on that?

26 DR. JOHNSTON: I know this issue, and I was one who
27 advocated more smaller prizes.
28

1 But the facts are that when the numbers pass 20
2 million, then the lines -- the people queue up to get involved,
3 and they have fantasies about how they're going to spend their
4 \$50 million. You know, they already have it all worked out in
5 their mind how they're going to spend the winnings, because it's
6 obviously going to them.

7 The people who are complaining, perhaps, about the
8 smaller prizes are the ones who didn't win that last major
9 offering.

10 So, what the Lottery is doing as a marketing device,
11 in effect, is that we will have large prizes for those that like
12 big odds and want to win that, and now we have the Decco game
13 with a defined smaller prize -- \$5,000 -- with the odds very,
14 perhaps, easy. They're only 1 out of 28,000 to win \$5,000, and
15 currently it's 1 in 14 million to win the big pots.

16 So, we're going to have something for everybody, is
17 the philosophy, I think, of the Lottery.

18 SENATOR PETRIS: How's the new daily thing working
19 out?

20 DR. JOHNSTON: It's marvelous. It's beyond my
21 expectations again. We're averaging \$800,000 a day on Decco.

22 SENATOR PETRIS: What was the estimate?

23 DR. JOHNSTON: Estimate, we really didn't know. We
24 had no idea, you know. To have two games going simultaneously,
25 using the machine, and two games going simultaneously in
26 Scratcher, we weren't at all sure what would happen. And our
27 sales results, I think, are marvelous.
28

1 SENATOR PETRIS: In other words, it brought in people
2 maybe who weren't betting at all?

3 DR. JOHNSTON: Well, it's a different marketplace.
4 It's the person who sees the odds as more favorable to them than
5 the one where it's 1 in 14 million. And soon, it's going to be
6 1 in 23 million in June, when we change it from 6 out of 49 to 6
7 out of 53.

8 SENATOR PETRIS: Is that right?

9 DR. JOHNSTON: That's the intention, to make that pot
10 even larger to satisfy the interest that exists in that
11 marketplace.

12 SENATOR CRAVEN: One out of 28 million.

13 DR. JOHNSTON: Currently, 6 out of 49 is one in 14
14 million, and in June we're going to change it to 6 out of 53,
15 and that changes the odds to one in 23 million.

16 SENATOR CRAVEN: Twenty-three million.

17 I wish, really, you hadn't mentioned that.

18 [Laughter.]

19 DR. JOHNSTON: I'm not allowed to play, Senator, so I
20 just observe what happens and transpires.

21 SENATOR CRAVEN: Like Senator Petris, I didn't
22 support the Lottery; although, at the same time, I said that I'm
23 sure if it passed that I would purchase tickets, which I have
24 done rather regularly, without too much luck. I won a couple \$5
25 prizes, but that's as good as I get.
26
27
28

1 But I'm one of those people who lives vicariously
2 every Wednesday and Saturday. It's just a question of which
3 bank I'll put it in.

4 [Laughter.]

5 I think all of us who have a tendency to probably
6 take it for granted the great operation that you have would have
7 to say that we feel that you and your colleagues have done a
8 very, very fine job in engineering that through, and monitoring
9 it, and maintaining it in the high order that you have.

10 I'd also congratulate the advertising agency that
11 you've chosen. I think they're very provocative. They do a
12 great job.

13 DR. JOHNSTON: Daley Advertising.

14 SENATOR CRAVEN: I'm sure that produces a lot of
15 people playing the system, but it just, to me, is fantastic, the
16 ideas that they come up with, all of them very colorful, very
17 new and modern. I'm very impressed.

18 DR. JOHNSTON: Thank you, Senator.

19 SENATOR CRAVEN: Any other questions, Nick? I'm
20 sorry.

21 SENATOR PETRIS: Yes, I had a point.

22 The Little Hoover Commission's recent report studying
23 the Lottery system had two recommendations. One was on the
24 evaluation. They seemed to feel that the Commission is weak in
25 the evaluation of the effectiveness of its advertising and
26 promotion.
27
28

1 It sounds like it's been very effective with Senator
2 Craven, but they seem to feel that you don't have a good
3 mechanism in place to do the evaluating of the various
4 advertising schemes, and they recommended some things that
5 should be done.

6 Are you familiar with that?

7 DR. JOHNSTON: Senator, from my past experiences with
8 the Board of Education, and I've been Chairman twice out of the
9 five years -- three times, in fact -- we've organized ourselves
10 in a committee basis. We now have a contingent of five Members,
11 by the way. I happen to chair a subcommittee having to do with
12 the marketing and the advertising, and so on, so I have a great
13 deal of interest in this particular area.

14 The bottom line to me is that we have sold \$10.5
15 billion worth of tickets. To me, that's the monitoring, and how
16 much money we've given to the schools. We want to show and
17 demonstrate as a bottom line that each year, we give the schools
18 a little bit more than the prior year, because I know, as a
19 school man, they're counting on that income.

20 To me, that's the evaluation that tells whether in
21 fact the Lottery has been productive or not.

22 SENATOR PETRIS: In other words, the cash register
23 tells you the story.

24 DR. JOHNSTON: It does to me.

25 SENATOR PETRIS: What's the total amount that's going
26 to schools?
27
28

1 DR. JOHNSTON: One billion last year, one billion
2 this year. Total since the start of the Lottery, 4 billion.

3 SENATOR PETRIS: Was it one billion last year?

4 DR. JOHNSTON: Yes, sir.

5 SENATOR PETRIS: For a while there, it was about half
6 a billion.

7 DR. JOHNSTON: When we started, it was 600 million
8 and then -- I have the exact numbers, if you're interested --
9 and then 508 million, and now we've built up. Last year, 1.03
10 billion, and we'll do that or better this year.

11 SENATOR PETRIS: The other recommendation was on
12 overall monitoring. The way the statute initiative was written,
13 there's no close overall monitoring by an independent agency, by
14 the Legislature, or by anyone else. They felt something ought
15 to be done about that.

16 What's your reaction to that?

17 DR. JOHNSTON: Senator, we're a business, if you
18 will, a State agency, albeit a business. We have to adjust, and
19 react, and go with the flow of the market situations and the
20 reaction to the games as we play them.

21 Talk about monitoring. Everybody monitors us, you
22 know. The Comptroller's staff we pay for is housed in our
23 building, and I don't know how many there are there. And then
24 we have an outside audit with the commercial Peat Marwick,
25 whatever their name is; they monitor. We have a security staff
26
27
28

1 that's absolutely marvelous with Mr. Ridder's leadership, and
2 they're monitoring everything that we're doing from a security
3 standpoint.

4 I think we're well monitored. At least that's my
5 personal reaction.

6 SENATOR PETRIS: I wonder what they're thinking of in
7 this report. They call it oversight. Not enough oversight.

8 DR. JOHNSTON: Well, the oversight is the
9 responsibility of the Commission.

10 People ask me, what is your bottom line? What is
11 your responsibility as a Commissioner?

12 I say one thing: the integrity of the games.

13 SENATOR PETRIS: Thank you.

14 SENATOR CRAVEN: Yes, Senator Beverly.

15 SENATOR BEVERLY: Assuming there's no opposition, I'm
16 prepared to make a motion.

17 SENATOR CRAVEN: Very well.

18 Is there anyone who wishes to testify in opposition?
19 There appears to be none.

20 SENATOR BEVERLY: Dr. Johnston is a constituent.
21 I've known him for a number of years. We admire his abilities
22 in many fields, including this new one.

23 I'm pleased to make the motion to approve the
24 confirmation.

25 SENATOR CRAVEN: Very well.

26 There being no further discussion, call the roll.

27 SECRETARY WEBB: Senator Beverly.
28

1 SENATOR BEVERLY: Aye.

2 SECRETARY WEBB: Senator Mello. Senator Petris.

3 SENATOR PETRIS: Aye.

4 SECRETARY WEBB: Senator Craven.

5 SENATOR CRAVEN: Aye.

6 SECRETARY WEBB: Senator Roberti.

7 SENATOR CRAVEN: Congratulations, Doctor. Thank you
8 for the job you've done. We appreciate it very much.

9 DR. JOHNSTON: Thank you.

10 [Thereupon this portion of the
11 Senate Rules Committee hearing
12 was terminated at approximately
13 2:20 P.M.]

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That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 18th day of April, 1990.


EVELYN J. MIZAK
Shorthand Reporter

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HEARING

SENATE RULES COMMITTEE

STATE OF CALIFORNIA

Legislative



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1 HEARING

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3 STATE OF CALIFORNIA

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10 STATE CAPITOL

11 ROOM 113

12 SACRAMENTO, CALIFORNIA

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16 WEDNESDAY, APRIL 25, 1990

17 2:00 P.M.

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24 Reported by:

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27 Evelyn J. Mizak
28 Shorthand Reporter

APPEARANCESMEMBERS PRESENT

SENATOR DAVID ROBERTI, Chairman

SENATOR WILLIAM CRAVEN, Vice Chairman

SENATOR ROBERT BEVERLY

SENATOR HENRY MELLO

MEMBERS ABSENT

SENATOR NICHOLAS PETRIS

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

JOHN KASSABIAN, M.D., Member
Board of Medical Quality Assurance
Division of Medical Quality

KARL S. ENGEMAN, Director
Office of Administrative Hearings

MADISON F. RICHARDSON, M.D., Member
Board of Medical Quality Assurance
Division of Allied Health

JOSEPH H. STEIN, Member
State Board of Education

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KARL S. ENGEMAN, Director
Office of Administrative Hearings

2

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Committee Action

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Division of Allied Health

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P-R-O-C-E-E-D-I-N-G-S

--oo0oo--

SENATOR CRAVEN: I'm going to ask that we deviate from the agenda to take care of one of the Governor's Appointees who is appearing today who has a crisis with which he must contend, Dr. Kassabian.

Dr. Kassabian is a Member of the Board of Medical Quality Assurance, Division of Medical Quality. He is an appointee of Governor Deukmejian.

We will ask you, Doctor, what we ask all the appointees, and that's to tell us why you feel you're qualified for this appointment, if you will, please.

DR. KASSABIAN: I'm a practicing physician and have been in this state since my childhood in the '40s.

To me, this is an opportunity to serve the people of this state. I have grown here, and my family lives here. With my medical background, I hope I can be of benefit.

SENATOR CRAVEN: Very well, thank you, Doctor.

Senator Mello, do you have any comments?

SENATOR MELLO: Normally I would, but I understand your brother was just rushed to the hospital.

Our file shows you have a good record, so I would yield to my colleague, Senator Beverly, to move your nomination.

SENATOR CRAVEN: Is there anyone in the audience who wishes to speak in opposition? There appears to be none.

SENATOR BEVERLY: Move the approval of the confirmation.

1 SENATOR CRAVEN: The motion is in order, moved by
2 Senator Beverly.

3 Call the roll.

4 SECRETARY WEBB: Senator Beverly.

5 SENATOR BEVERLY: Aye.

6 SECRETARY WEBB: Senator Mello.

7 SENATOR MELLO: Aye.

8 SECRETARY WEBB: Senator Petris. Senator Craven.

9 SENATOR CRAVEN: Aye.

10 SECRETARY WEBB: Senator Roberti.

11 SENATOR CRAVEN: The vote is three-zero; your
12 nomination is to the Floor.

13 Congratulations. I hope everything is well at home.

14 DR. KASSABIAN: Thank you, Senator.

15 [Thereupon the Rules Committee
16 acted upon legislative agenda
17 items.]

18 CHAIRMAN ROBERTI: Governor's Appointees appearing
19 today, Karl S. Engeman, Director of the Office of Administrative
20 Hearings.

21 Let me ask you what we ask all the Governor's
22 Appointees, and that is why you feel you're qualified to assume
23 this position.

24 MR. ENGEMAN: I've been affiliated with the Office
25 for -- let's see, it's about 18 years now, since I began to
26 practice as an attorney. I began with the Department of Motor
27 Vehicles, trying cases before the Office of Administrative
28

1 Hearings, and moved, after about two years, to the State
2 Attorney General's Office and tried cases for approximately six
3 more years before the Office, and then became an Administrative
4 Law Judge for the Office in 1980 and presided over the
5 Sacramento Office since about five years ago, and became the
6 acting Director in about what was last fall, when my predecessor
7 was appointed to the Municipal Court bench in San Francisco,
8 Donald Mitchell, and was appointed by the Governor in October.

9 So, really, through the entirety of my career as an
10 attorney, I've been either trying cases or hearing cases with or
11 for the Office of Administrative Hearings.

12 I have, obviously, a great interest in the future of
13 the Office. I've been able to recognize some of the things that
14 I think can be done better, and this gives me an opportunity to
15 try to rectify those things that I think can and should be
16 rectified.

17 CHAIRMAN ROBERTI: Thank you very much.

18 Is there any discussion or debate? Is there any
19 opposition in the audience?

20 SENATOR CRAVEN: Move Mr. Engeman.

21 CHAIRMAN ROBERTI: Senator Craven moves.

22 Secretary will call the roll.

23 SECRETARY WEBB: Senator Beverly.

24 SENATOR BEVERLY: Aye.

25 SECRETARY WEBB: Senator Mello. Senator Petris.
26 Senator Craven.

27 SENATOR CRAVEN: Aye.
28

1 SECRETARY WEBB: Senator Roberti.

2 CHAIRMAN ROBERTI: Aye.

3 The vote is three to zero; confirmation is
4 recommended to the Floor.

5 MR. ENGEMAN: Thank you.

6 CHAIRMAN ROBERTI: Dr. Madison F. Richardson, Member
7 of the Board of Medical Quality Assurance, Division of Allied
8 Health.

9 We'll ask you the same question, why you feel you're
10 qualified to assume this position.

11 DR. RICHARDSON: I grew up in California, and I have
12 in the practice of medicine in Los Angeles for the past 13
13 years.

14 I have a broad experience in the community, both in
15 the professional and the social context. I've served as
16 Chairman of the Board of the Urban League, President of the
17 Charles Drew Medical Society. I retain an appointment to both
18 the UCLA and USC Schools of Medicine, and have served as an
19 Associate Dean of the Medical School, and have served as
20 Secretary to the Board the last year.

21 CHAIRMAN ROBERTI: Is there any opposition in the
22 audience?

23 There's been some concern that foreign-trained
24 graduates don't receive the same treatment from the Board as do
25 domestically trained graduates; that they have to take more and
26 more stringent qualifying tests.

27 Is there anything being done to equalize that?
28

1 DR. RICHARDSON: My appointment's to the Allied
2 Health Division.

3 CHAIRMAN ROBERTI: So you don't have anything to do
4 with that?

5 DR. RICHARDSON: Not very much at all, only in terms
6 of the general Board.

7 SENATOR BEVERLY: Move approval.

8 CHAIRMAN ROBERTI: Senator Beverly has moved.

9 Secretary, call the roll.

10 SECRETARY WEBB: Senator Beverly.

11 SENATOR BEVERLY: Aye.

12 SECRETARY WEBB: Senator Mello. Senator Petris.
13 Senator Craven.

14 SENATOR CRAVEN: Aye.

15 SECRETARY WEBB: Senator Roberti.

16 CHAIRMAN ROBERTI: Aye.

17 The vote is three to nothing; confirmation is
18 recommended to the Floor.

19 Joseph H. Stein, Member of the State Board of
20 Education.

21 We'll ask you the same question, why you feel you're
22 qualified to assume this position.

23 MR. STEIN: Although I'm not a member of the
24 education community, I feel confident of my qualifications to
25 serve on the State Board of Education.

26 I have a deep-seated parental interest in high
27 quality, well-balanced curriculum for all students of
28

1 California. I bring what I consider an objective layman's point
2 of view to the broad spectrum of issues that the Board must
3 address. I'm willing to make the time commitment to fulfill to
4 the best of my abilities the duties of a Board Member.

5 I look forward to working with my Board colleagues,
6 staff, and with you as Legislators to achieve the goals that
7 were set forth by the National and State Educational Summits.

8 I recognize what I feel is a unique role of the State
9 Board of Education as the only State body which acts as advocate
10 for K-12 children in the State of California, and I'm anxious to
11 be a part of that advocacy.

12 Finally, I have served on the Board almost one year,
13 since last May, and current am Chairman of the Legislative
14 Committee of the State Board.

15 CHAIRMAN ROBERTI: Thank you very much.

16 There was a very big controversy at the State Board
17 recently on the introduction of creationism into the text books.

18 What is your position on that?

19 MR. STEIN: My position on creationism is that
20 religion may be taught in the social sciences, but that the
21 science curriculum should stay with the way the Board passed it.

22 We were very comfortable -- I was very comfortable
23 with the concessions and with the resolutions that were passed
24 on that, Mr. Chairman.

25 CHAIRMAN ROBERTI: When you say it can be taught in
26 the social sciences, do you mean as history, or as --

27 MR. STEIN: I'm thinking of comparative religions,
28

1 yes, sir. I'm not thinking of dogma.

2 We agreed strongly, to a person, and very strongly
3 that there would be no dogmatism in any of the curriculum, and I
4 support that one hundred percent.

5 CHAIRMAN ROBERTI: Is there any opposition in the
6 audience to this nomination?

7 Seeing none, do I hear a motion?

8 SENATOR CRAVEN: So move.

9 CHAIRMAN ROBERTI: Senator Craven moves.

10 SENATOR CRAVEN: I'm happy to move a Haverford man.

11 CHAIRMAN ROBERTI: Secretary will call the roll.

12 SECRETARY WEBB: Senator Beverly.

13 SENATOR BEVERLY: Aye.

14 SECRETARY WEBB: Senator Mello. Senator Petris.

15 Senator Craven.

16 SENATOR CRAVEN: Aye.

17 SECRETARY WEBB: Senator Roberti.

18 CHAIRMAN ROBERTI: Aye.

19 The vote is three to zero; confirmation is
20 recommended to the Floor.

21 Congratulations.

22 MR. STEIN: Thank you very much.

23 [Thereupon this portion of the
24 Senate Rules Committee hearing
25 was terminated at approximately
26 3:00 P.M.]

27 --oo0oo--
28

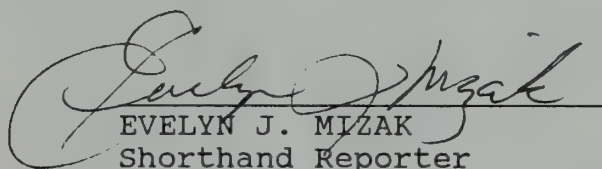
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IN WITNESS WHEREOF, I have hereunto set my hand this 25th day of April, 1990.


EVELYN J. MIZAK
Shorthand Reporter

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28 Shorthand Reporter

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SENATOR WILLIAM CRAVEN, Vice Chairman

SENATOR NICHOLAS PETRIS

MEMBERS ABSENT

SENATOR ROBERT BEVERLY

SENATOR HENRY MELLO

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

JOHN V. DIEPENBROCK, Member
California State Lottery Commission

ROSEMARY F. FERRARO, Member
California Horse Racing Board

CHARLES D. MARSHALL, JR., Superintendent
Pelican Bay State Prison

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CHAIRMAN ROBERTI: Governor's Appointees, John V. Diepenbrock, Member of the California State Lottery Commission.

MR. DIEPENBROCK: Good afternoon. I'm John V. Diepenbrock.

CHAIRMAN ROBERTI: Mr. Diepenbrock, we'll ask you what we ask all the Governor's Appointees, and that is what are your qualifications to assume this position?

MR. DIEPENBROCK: Senator, it's my understanding that the function of the Lottery Commission is akin to that of a board of directors of a corporation, whether it be profit or nonprofit, and that is an arena in which I have served, both for profit corporations and nonprofit, two of which corporations were public issue corporations where there was public scrutiny and public responsibility, and other have been not public issue with less scrutiny.

But nonetheless, I do believe that having had that experience, and having had a good deal of experience working with people, and working with situations, that I am able to discharge the duties of this Commission.

CHAIRMAN ROBERTI: Thank you, Mr. Diepenbrock.

Is there anybody in the audience in opposition to the appointment?

Are there any questions?

SENATOR CRAVEN: If there are none, Mr. Chairman, I would move the nomination of Mr. Diepenbrock to the Floor.

1 CHAIRMAN ROBERTI: I think you're going to get off
2 easy, Mr. Diepenbrock.

3 MR. DIEPENBROCK: That's satisfactory from my
4 standpoint, Senator Roberti.

5 CHAIRMAN ROBERTI: Senator Craven moves your
6 nomination to the Floor.

7 Secretary will call the roll.

8 SECRETARY WEBB: Senator Beverly. Senator Mello.
9 Senator Petris.

10 SENATOR PETRIS: Aye.

11 SECRETARY WEBB: Senator Craven.

12 SENATOR CRAVEN: Aye.

13 SECRETARY WEBB: Senator Roberti.

14 CHAIRMAN ROBERTI: Aye.

15 The vote is three to nothing; the confirmation is
16 recommended to the Floor.

17 Congratulations.

18 MR. DIEPENBROCK: Thank you very much. Good
19 afternoon.

20 CHAIRMAN ROBERTI: Rosemary F. Ferraro, Member of the
21 California Horse Racing Board.

22 Ms. Ferraro, we will ask you the same question, and
23 that is why you feel you're qualified to retain this position.

24 MS. FERRARO: Good afternoon, Senators.

25 I have provided for you a four-page report on what
26 I've accomplished in my four years there. If I may be permitted
27 to, I'd like to read it to you. It takes about five minutes.
28

1 CHAIRMAN ROBERTI: Yes, please.

2 MS. FERRARO: Thank you.

3 I welcome this opportunity to appear before you today
4 to discuss some of the important issues that are facing the
5 horse racing industry. My recent four-year term has certainly
6 been a real challenge, and I am pleased to report that we are
7 finally making progress. I welcome the possibility of following
8 these issues to solution.

9 It is impossible for me to relate for you all of the
10 events of the past four years, but I should like to address a
11 few key areas that have been of particular importance to me, and
12 I would then welcome questions regarding the issues that are of
13 concern to you.

14 I am serving as the Chairman of the Medication
15 Committee, and I have become very aware of the problem of
16 chemical abuse to our horses. My committee has been among the
17 most active committees, and although we have met with resistance
18 from those who would choose to ignore the distastefulness of
19 horse-druggings, we have made genuine strides.

20 Since July of 1989, Dr. Dennis Meagher of U.C. Davis
21 has served us well in the newly created position of Equine
22 Medical Director. Dr. Meagher has aided in establishing a
23 complementary drug testing program.

24 A close examination of our procedures has helped us
25 to identify specific problems that need attention. We found
26 that not all horses directed to submit to urinalysis were, in
27 fact, in compliance. Many samples were too dilute to be
28

adequately analyzed by a laboratory. We have discovered, since the addition of the Iowa State University Laboratory, that some of our samples have unusual pH levels.

Because of both findings, our committee changed the time of administration and the amount of diuretic, lasix, to be given on race day. We have also implemented a program whereby, under certain circumstances, selected horses may be requested to submit a second, more suitable sample.

Last fall, we discovered that, contrary to the requirements in our rules and regulations, autopsies were not being performed on our horses that died or were euthanized within the racing enclosure. In November, Dr. Meagher began the work of identifying facilities that would accept our deceased horses and submit them to a thorough autopsy. Dr. Meagher has, fortunately, succeeded in accomplishing his task, and the U.C. Diagnostic Laboratories -- located at Davis, San Bernardino, and Tulare -- are receiving the horses from their respective regions.

Simultaneously to our request of Dr. Meagher, we instructed staff to investigate the possibility that revenue from the uncashed tickets, earmarked for research and security, be solicited to finance the autopsy program. To date, those monies have been returned to the general fund. The costs incurred for performing the autopsies must qualify as research, and we hope that our requests for the revenue will be well received.

Our innovative autopsy program is an opportunity for

1 the horse racing in California to send a clear message to other
2 jurisdictions. We are interested in the research and are
3 hopeful that, with the public's current consciousness of
4 animals' rights and their well being, that our industry will
5 illustrate our concern for the horse. We plan to evaluate our
6 program as of December 31st, 1990, and make any necessary
7 adjustments.

8 Since January of 1989, we have implemented the split
9 sample, which is taken and stored for the horseman. Should a
10 trainer be faced with a positive test, we wanted the benefit of
11 a referee sample that can be used as the horseman's defense.

12 We are currently adopting a policy whereby if the
13 split sample is reconfirmed by one of three designated
14 laboratories, the CHRB and the trainer will agree not to
15 disagree on the science of the sample. They will accept that
16 the sample does contain the prohibitive drug, but may disagree
17 on how the substance entered the sample. This policy should
18 save all concerned substantial legal fees and expedite our
19 cases.

20 In the past year, staff determined that positive
21 cases should be removed from the jurisdiction of the Board of
22 Stewards and heard by the administrative law judge. This policy
23 has not fared well, and I am pleased that as of this month, the
24 cases will once again be heard by the Stewards. We expect that
25 the cases will now be expedited in a more timely fashion.

26 On April 13th, 1990, our new RFPs were mailed, and we
27 will be opening the bids for the new drug testing contracts on
28

1 May 9th, 1990. We are pleased that our bidders will be
2 evaluated on a point system and are hopeful that this will
3 enable us to accept the finest laboratories available to us.

4 A complete review of the Receiving Barns and their
5 procedures has been completed, and our two Medication Stewards
6 are working with the various racing associations and the Board
7 to achieve consistency in Receiving/Test Barn facilities and
8 policies throughout the State of California.

9 In February, Dr. Meagher organized a workshop for
10 those of us most involved with the medication program. We were
11 privileged to hear the finest scientists in drug testing advise
12 us that our court cases of the future will not be lost on
13 science, but rather, are more vulnerable to defeat by improper
14 Test Barn procedures and chain-of-custody. The improvement of
15 the Receiving/Test Barn procedures should be of great benefit to
16 us.

17 As you know, we are currently without an Executive
18 Secretary. It is clear that our organizational problems are
19 complex. I feel that it is the responsibility of our Commission
20 to regain control of our agency and to actively participate in
21 the rebuilding process.

22 My past term has been frustrating, and but it has
23 been rewarding. We have met with much resistance at times, but
24 I have enjoyed the cooperation of many fine people who are
25 genuinely concerned about the well being of our horses and our
26 industry.

27 I hope that I can continue with my work on the Board,
28

1 and I seek your assistance. As is always the case, we need a
2 budget that will enable us to authorize the expenses necessary
3 to restore the credibility of racing, to protect the horse, and
4 to better serve the betting public.

5 I thank you for your time and interest, and would now
6 welcome any of your questions.

7 CHAIRMAN ROBERTI: Thank you.

8 I'm very happy with your presentation. You touched
9 on a number of important questions that don't deal necessarily
10 with racing dates or wagering, with which sometimes we feel the
11 Board is preoccupied. I'm interested in the wide range of
12 things that you brought up.

13 Senator Craven.

14 SENATOR CRAVEN: Ms. Ferraro, you mentioned in
15 passing something that I've had an interest in.

16 You mentioned lasix, which is a diuretic.

17 MS. FERRARO: Uh-huh.

18 SENATOR CRAVEN: That's a permissible drug for
19 horses; is it?

20 MS. FERRARO: Yes, it is. And we were giving it --
21 the rules were to give it three hours out; that means three
22 hours before post time of that particular race. We've moved
23 that back to four hours, so hopefully there wouldn't be quite as
24 much dilution effect in it.

25 We met with some resistance there, but we're firm
26 about it.

27 SENATOR CRAVEN: May I ask you a rather, perhaps,
28

1 naive or stupid question? Is this something that affects the
2 weight of the horse?

3 MS. FERRARO: The weight of the horse?

4 SENATOR CRAVEN: Yes.

5 MS. FERRARO: Well, that I can't answer. All I know
6 is that --

7 SENATOR CRAVEN: Why couldn't they take it before
8 post time, immediately before post time?

9 MS. FERRARO: I beg your pardon?

10 SENATOR CRAVEN: Why could they not have it given
11 them immediately before post time?

12 MS. FERRARO: Because it has the effect of a -- the
13 dilution in the urine is much stronger then. It takes awhile.
14 It takes about four hours for the horse's system to return to
15 normal.

16 And that's why we have been doing another procedure
17 that has been met with some obstructions from the trainers, but
18 when a horse does not submit a suitable urine sample -- we were
19 getting some, I might tell you, that were as clear as Perrier on
20 some of the urine samples -- and when a horse does not submit a
21 suitable urine sample, or a refusal in which they do not give us
22 a urinal sample, then we try -- we detain them for about four
23 hours until the horse has had time for its system to return to
24 normal, and then we take another sample.

25 And we have noted in a few cases that there has been
26 some changes in the urine samples at that time. There have been
27 some unexplained findings in there at this time that we're
28

1 researching.

2 SENATOR CRAVEN: If I understand your properly, you
3 give this to the horse to precipitate urination, in a quicker
4 sense, the urination then to be examined to see if there's a
5 possibility of discovery of something that is illegal in the
6 urine.

7 MS. FERRARO: That's part of it, but mostly they're
8 on lasix because of a pulmonary problem. They bleed when
9 racing. And if they get the lasix, it does help, somehow or
10 other -- I'm not a chemist -- prevent them from bleeding or
11 hemorrhaging while -- during a race. It's a very stressful
12 period, and many horses seem to need it.

13 SENATOR CRAVEN: Oh, I see.

14 MS. FERRARO: But we're trying to put as many --

15 SENATOR CRAVEN: The reason I asked this questions
16 is, this horse takes lasix every day, and I often wonder what
17 the hell I'm doing that for.

18 [Laughter.]

19 SENATOR CRAVEN: I haven't won a race in years.

20 [Laughter.]

21 MS. FERRARO: Well, anyhow, what we're using it for
22 is to --

23 SENATOR CRAVEN: I'm going to the post in November.

24 [Laughter.]

25 MS. FERRARO: Well, we're being careful to try to
26 chase down any possible cheaters out there.

27 SENATOR CRAVEN: That's very interesting, dear, and I
28

1 appreciate it very much.

2 MS. FERRARO: Thank you.

3 Our post-mortem program is important to us. If
4 there's somehow or other we could get the funds to try that for
5 six months, because I think California will be a leader in this
6 area. There's never been any tests on race horses before, only
7 two that I know of, and that was in the east on just 15 horses,
8 and another university did it, but it was not with racing
9 horses. We feel that this would be very beneficial for the
10 racing industry if we're able to conduct -- find a few dollars
11 to pay us for our efforts for the next six months.

12 I hope that when our budget comes up, you will
13 consider it.

14 Are there any more questions?

15 SENATOR PETRIS: Yes, I have some.

16 CHAIRMAN ROBERTI: Senator Petris has a couple.

17 MS. FERRARO: Yes, Senator.

18 SENATOR PETRIS: These changes regarding the testing
19 and so forth, were they prompted by the hearing that the
20 Assembly had in which Assemblyman Richard Floyd made
21 suggestions? He complained that there was no established
22 procedure for trying to find out about the drug use.

23 Was that either prompted or accelerated by the
24 comments made at the hearing?

25 MS. FERRARO: Well, I had been fussing in that
26 direction some time, and his hearing was helpful. It did help
27 to expedite it some.
28

1 SENATOR PETRIS: That helped you to push it along?

2 MS. FERRARO: It is difficult, I tell you, to get
3 anything -- any controls or changes on out there because,
4 naturally, the trainers do resist any change or any control.

5 But, you know, with the emergence and explosion of
6 all these new designer-type drugs out there, it's a difficult
7 thing to monitor now.

8 SENATOR PETRIS: But you're trying.

9 MS. FERRARO: Uh-huh.

10 SENATOR PETRIS: Where are you from?

11 MS. FERRARO: I'm from Downey, California.

12 SENATOR PETRIS: I see the Downey Vendors. That's
13 your --

14 MS. FERRARO: Yes, our business is vending. You
15 know, Cokes, chips, and coffee machines. Mostly in factories
16 and places like that, schools.

17 SENATOR PETRIS: There aren't any Northerners on that
18 Board anymore.

19 MS. FERRARO: Any what?

20 SENATOR PETRIS: Anybody from Northern California.

21 MS. FERRARO: Phoebe Cooke is from the San Francisco
22 area, and she just recently was appointed.

23 And it would be nice in time to have another one from
24 the North. I do feel like at least two or three of them should
25 be from either Central or North.

26 SENATOR PETRIS: I've had a problem with the
27 composition. One is, there's nobody from the North, and the
28

1 other is, no Democrats, as far as I know.

2 MS. FERRARO: Well, when you get a Democrat Governor,
3 then you might get lots of Democrats on the Board.

4 [Laughter.]

5 MS. FERRARO: That's sort of the way the cookie
6 crumbles, I think.

7 SENATOR PETRIS: In the meantime --

8 MS. FERRARO: My father was a long-time Democrat. He
9 died at the age of 90, and he was always a Democrat.

10 CHAIRMAN ROBERTI: Ms. Ferraro is a very active
11 Republican in Los Angeles County, but her brother-in-law, I
12 believe, is Councilman Ferraro who's a Democrat.

13 SENATOR PETRIS: Yes, he's a good friend of mine.

14 CHAIRMAN ROBERTI: So, she's related to them.

15 SENATOR PETRIS: Reach out where ever you can.

16 [Laughter.]

17 SENATOR PETRIS: Well, I raised it because, when we
18 have a Democratic Governor, if he doesn't appoint a pretty good
19 sprinkling of Republicans, he gets all kinds of static from the
20 Republican leadership in the Legislature.

21 We haven't been doing that. We just take these
22 appointments, and we grumble a little bit, and sometimes work
23 them over in here, and we vote for them.

24 It certainly has nothing to do with your
25 qualifications, and I'm not picking on you. But I think we've
26 exercised enormous restraint.

27 It does raise a question of why should we confirm
28

1 someone for a full-term -- you've got four years ahead -- from a
2 lame-duck Governor who ain't going to be around here much
3 longer. You see what I mean?

4 MS. FERRARO: Uh-huh.

5 SENATOR PETRIS: So, he's reaching into the future
6 and making policy with particular members that he's appointing.

7 On the basis of what you've told us, I think you're
8 making very good policy, so I don't have any quarrel with you.
9 I'm looking at the overall picture.

10 But just for the record, there ain't no Democrats,
11 and there ain't no Northerners until this latest one gets
12 confirmed.

13 SENATOR CRAVEN: It's a shame. It's really a shame.

14 SENATOR PETRIS: I can see your tears from here.

15 SENATOR CRAVEN: You know, I really do shed a tear
16 now and then, and I try to hide it the best I can.

17 Then I think of the fact that the Assembly is
18 controlled by Democrats, and the Senate is controlled by
19 Democrats, and I think even the Chaplain is a Democrat.

20 [Laughter.]

21 SENATOR PETRIS: That's probably the most important
22 post of all. We need all the help we can get in that
23 department.

24 SENATOR CRAVEN: Ain't it the truth.

25 [Laughter.]

26 SENATOR PETRIS: I'd like to ask about labor policy.
27 I usually ask this of all the persons who come before us from
28

1 that Board.

2 I have had, over the years, several opportunities to
3 look into the labor policy because I'm close to the labor
4 people. One of the complaints has been, there doesn't seem to
5 be a very good outlet or grievance procedure for the workers at
6 the tracks -- service employees -- who have a strong union,
7 actually, the SCIU people, the clerks and others. They're not
8 eligible to go into any State NLRB, and there's no comparable
9 mechanism at the race track level. And although they have a
10 union steward and a grievance procedure, it seems to get lost
11 very quickly.

12 Some of the problems that have been brought to my
13 attention have been very serious. The clerks, in particular the
14 pari-mutuel clerks, when they brought in new machines, and some
15 of the monitoring and other mechanisms that they had set up
16 appeared to me were very unfair to the employees at the time.
17 But they couldn't get the ear of the Board. That's one general
18 area I want to ask you about.

19 The other one is that when the very fundamental
20 change was made under a bill by Senator Maddy to extend to the
21 satellite betting -- you go to one track, but you can bet on
22 races through other tracks where there isn't any activity; you
23 just tie into the system -- and the big question there was, what
24 happens to the status of the unions at these various places?
25 And there was some hard negotiating, and there was a solid
26 agreement by the author and other supporters of the bill that
27 they would honor whatever labor union provisions, contracts,
28

1 were in place.

2 But there have been some incidents indicating that
3 has not been honored. The more recent one is, I believe, at Los
4 Alamitos.

5 The bill I referred to is SB 14 by Senator Maddy.

6 No, the last one was at Del Mar Race Track, where the
7 provisions simply weren't followed.

8 I'm going to ask you what you can tell us about that,
9 and maybe you don't sit on that subcommittee that's supposed to
10 look into those problems.

11 What I'm saying is that the complaints seem to
12 persist about lack of remedies in the cases of these kinds of
13 violations of both the statute and the contract.

14 Do you have any familiarity with that?

15 MS. FERRARO: Well, I'm not on the Pari-mutuel
16 Committee this time. I think it came up one time about Del Mar
17 when I was on it, but I think the contract's settled, or
18 agreement was reached with Del Mar at this time, as far as I
19 know.

20 I may be incorrect, but I know I have looked into
21 accommodations and things at some of the tracks for the union
22 people, pari-mutuel workers. They have complained of some of
23 their accommodations, and I've tried to make some progress
24 there.

25 SENATOR PETRIS: As far as you know, that dispute's
26 been settled?

27 MS. FERRARO: The one at Del Mar, as far as I know.
28

1 I could stand to be corrected, but I'm pretty sure it is.

2 SENATOR PETRIS: I've asked you about the
3 geographical thing. We have tracks at Cal Expo, and Bay Meadows
4 and Golden Gate Fields, and not a representative distribution on
5 the Board.

6 MS. FERRARO: Well, Ms. Cooke lives in that area now.

7 SENATOR PETRIS: Pardon me?

8 MS. FERRARO: Ms. Cooke lives in that area,
9 Commissioner Cooke does, and Commissioner Paul Dietz lives in --
10 well, he's south of you in Santa Inez. That's north of Santa
11 Barbara.

12 SENATOR PETRIS: Yes, well, we consider that south up
13 here.

14 MS. FERRARO: Our current Chairman's home is in
15 Bakersfield, but that's a little bit south of you, I agree.

16 SENATOR PETRIS: Thanks. I don't have any other
17 questions.

18 CHAIRMAN ROBERTI: Any other questions?

19 Is there any opposition in the audience?

20 SENATOR CRAVEN: Move Ms. Ferraro's confirmation.

21 CHAIRMAN ROBERTI: Senator Craven moves the
22 confirmation to the Senate.

23 Secretary will call the roll.

24 SECRETARY WEBB: Senator Beverly. Senator Mello.
25 Senator Petris.

26 SENATOR PETRIS: Aye.

27 SECRETARY WEBB: Senator Craven.
28

1 SENATOR CRAVEN: Aye.

2 SECRETARY WEBB: Senator Roberti.

3 CHAIRMAN ROBERTI: Aye.

4 The vote is three to zero; confirmation is
5 recommended to the Floor.

6 Congratulations.

7 MS. FERRARO: Thank you, Senators. I appreciate your
8 time.

9 CHAIRMAN ROBERTI: The next is Charles D. Marshall,
10 Jr., Superintendent of Pelican Bay State Prison.

11 Mr. Marshall, could you speak to your qualifications
12 to assume this position?

13 MR. MARSHALL: Yes, sir, thank you very much.

14 I am a career Corrections employee. I began my
15 career in 1967 as a correctional officer. I have worked up to
16 my present position through the ranks. I've worked at five
17 different institutions and also in two or three additional
18 Headquarter assignments.

19 I feel that during this period I have also prepared
20 myself professionally and academically, achieving a Bachelor's
21 Degree while I was working for the Department.

22 It is my pledge to the current administration, the
23 Legislature, and the citizens of California to do all within my
24 power as the Superintendent at Pelican Bay State Prison to
25 provide ethical leadership, fiscal responsibility, a cooperative
26 working relationship with the local and state community, and to
27 also provide as many viable programming and rehabilitation
28

1 opportunities for inmates as safety and security will allow.

2 Finally, I pledge continued public safety to the
3 citizens of California through this institution.

4 CHAIRMAN ROBERTI: Thank you, Mr. Marshall.

5 Is there any opposition in the audience?

6 Are there any questions of the Superintendent?

7 Senator Petris.

8 SENATOR PETRIS: How long have you been in the
9 system?

10 MR. MARSHALL: Twenty-three years, sir.

11 SENATOR PETRIS: Can you tell us what kind of
12 programs are going on with respect to teaching: teaching the
13 alphabet to the inmates; teaching them how to read?

14 I understand that the percentage of those who have a
15 very, very low or no reading level is pretty high.

16 MR. MARSHALL: A significant number of our inmates
17 that come to us -- well, a significant number do not have high
18 school educations. There is a percentage of that number who are
19 illiterate. There is also a population who are English-as-a-
20 Second Language. They speak Spanish only.

21 In our institution, we have a full academic program,
22 ranging from English-as-a-Second-Language, where we teach basic
23 literacy skills, all the way up through and including high
24 school. And we're currently negotiating with the local junior
25 college up there for some college-level courses also.

26 SENATOR PETRIS: I understand that 56 percent are
27 only at the fourth grade reading level of the entire prison
28

1 population.

2 Is your particular one about the same as that?

3 MR. MARSHALL: Yes, sir, it is.

4 SENATOR PETRIS: When you say "full academic
5 program," is that mandatory?

6 MR. MARSHALL: It's not mandatory. Some inmates have
7 high school educations.

8 What we are doing is, we're tying work assignments,
9 we're tying participation in Prison Industry Authority
10 assignments, we're tying vocational education assignments with
11 skill level and educational level.

12 So that an inmate, if he -- if he has a high school
13 education -- no, let's say he has an eighth grade education, and
14 he wants to be working in the Prison Industry Authority, making
15 glasses. And he wants a very high pay number inn the system.

16 We would tie that with his skill level and with his
17 education level. And it might be necessary for him to go back
18 through our education program as part of a classification action
19 and achieve a high school education before he could attain the
20 job that he wants in Prison Industries.

21 SENATOR PETRIS: Have there been any studies made to
22 track people after they leave, to compare those who have gone
23 through the courses and those who have not as far as how they do
24 on the outside after they're released?

25 MR. MARSHALL: To my knowledge, we have not done any
26 specific studies to tie parole success with academic achievement
27 in the institution.
28

1 We do follow-up with vocational employment, and
2 sometimes you can get an indication that those who complete
3 academic studies and get a trade, and are able to achieve
4 employment, do better than those that don't.

5 SENATOR PETRIS: You know, we hear a lot about the
6 recidivism rate, and the total failure of rehabilitation, and
7 all that.

8 I'm wondering, since we do get so many back, if any
9 kind of an analysis is made, at least of those who come back, to
10 find out the reasons, and whether it's related to anything that
11 can be done while they're in prison to help overcome that.

12 MR. MARSHALL: We see two things. We see inmates who
13 succeed on parole do that partly because they have educational
14 opportunities and take advantage of them. They become more
15 literate; they become more functional in society.

16 I think the other thing that we see is a significant
17 number of returnees where substance abuse is a significant
18 factor. And as a Department and as an institution, right now
19 we're focusing a lot of our attention and resources to
20 developing substance abuse treatment programs, substance abuse
21 educational programs and control programs where we can break
22 that cycle.

23 SENATOR PETRIS: By "we", do you mean generally
24 throughout the system, or are you talking about --

25 MR. MARSHALL: I'm talking throughout the system in
26 general, and at Pelican Bay specifically.

27 SENATOR PETRIS: Thank you.
28

1 CHAIRMAN ROBERTI: Are there any other questions?

2 SENATOR CRAVEN: Move.

3 CHAIRMAN ROBERTI: Senator Craven moves Charles
4 Marshall's confirmation be recommended to the Floor as
5 Superintendent of Pelican Bay State Prison.

6 Secretary will call the roll.

7 SECRETARY WEBB: Senator Beverly. Senator Mello.
8 Senator Petris.

9 SENATOR PETRIS: Aye.

10 SECRETARY WEBB: Senator Craven.

11 SENATOR CRAVEN: Aye.

12 SECRETARY WEBB: Senator Roberti.

13 CHAIRMAN ROBERTI: Aye.

14 The vote is three to nothing; confirmation is
15 recommended to the Floor.

16 Congratulations.

17 MR. MARSHALL: Thank you.

18 [Thereupon this portion of the
19 Senate Rules Committee hearing
20 was terminated at approximately
21 2:53 P.M.]

22 --oo0oo--
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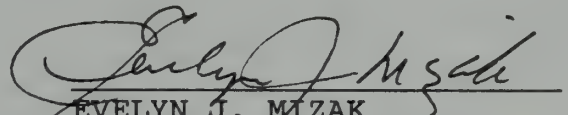
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That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 3rd day of May, 1990.


EVELYN J. MIZAK
Shorthand Reporter

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17 2:21 P.M.

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24 Reported by:

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27 Evelyn J. Mizak
28 Shorthand Reporter

APPEARANCESMEMBERS PRESENT

SENATOR WILLIAM CRAVEN, Vice Chairman

SENATOR ROBERT BEVERLY

SENATOR HENRY MELLO

SENATOR NICHOLAS PETRIS

MEMBERS ABSENT

SENATOR DAVID ROBERTI, Chairman

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

G. ALLAN KINGSTON, Executive Director
Century Freeway Housing Program

SENATOR REBECCA MORGAN

S. STEPHEN NAKASHIMA, Member
The Regents of the University of California

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P-R-O-C-E-E-D-I-N-G-S

--oo0oo--

SENATOR CRAVEN: Now we'll go back to the agenda, Governor's Appointees appearing today. First is G. Allan Kingston, Executive Director of the Century Freeway Housing Program.

Mr. Kingston, we'll ask you, after you get situated there, to tell us why you feel that you are qualified for this very responsible position.

MR. KINGSTON: Mr. Chairman and Members of the Committee, my name is G. Allan Kingston. I'm Executive Director of the Century Freeway Housing Program, and I appreciate the opportunity to briefly summarize for you my qualifications to fulfill this position.

For the past approximately 25 years, I have been involved in the real estate development industry, basically in private enterprise. I have been involved in a variety of public and private projects in both the construction, development, financing, and funding of those projects.

During that time, I have worked for several large corporations and have also acted as an independent contractor, dealing with the construction of housing particularly as a specialty.

I started out my career in public service with the predecessor agency to the Department of Housing and Urban Development as a federal employee, and went on to work with the Oakland Redevelopment Agency as the Deputy Director, and as the

1 Director of the Fresno Redevelopment Agency, before I then went
2 into private enterprise.

3 I am a native of San Francisco, attended public
4 schools in San Francisco, City College in San Francisco, and the
5 University of California. I graduated from the University of
6 California in Berkeley.

7 SENATOR CRAVEN: Very well. Thank you very much.

8 MR. KINGSTON: I would be pleased to answer any
9 questions.

10 SENATOR CRAVEN: Fine. We'll see if any of the
11 Members of the Committee may have questions.

12 Senator Petris, do you have any questions of
13 Mr. Kingston?

14 SENATOR PETRIS: No.

15 I've known Mr. Kingston since his days in Oakland,
16 and I heartily endorse him.

17 SENATOR CRAVEN: Well, that's why I called upon you.
18 I thought you'd have a few kinds words to say.

19 Senator Beverly.

20 SENATOR BEVERLY: I'm prepared to move if there's no
21 opposition.

22 SENATOR CRAVEN: I don't believe there is.

23 Any opposition in the audience? There is none.

24 SENATOR BEVERLY: Move the approval of the
25 nomination.

26 SENATOR CRAVEN: Senator Beverly moves.

27 Call the roll.
28

1 MR. KINGSTON: Thank you very much.

2 SECRETARY WEBB: Senator Beverly.

3 SENATOR BEVERLY: Aye.

4 SECRETARY WEBB: Senator Mello. Senator Petris.

5 SENATOR PETRIS: Aye.

6 SECRETARY WEBB: Senator Craven.

7 SENATOR CRAVEN: Aye.

8 SECRETARY WEBB: Senator Roberti. Three to zero.

9 SENATOR CRAVEN: Three-zero; nomination to the Floor.

10 Thank you very much, sir.

11 If we just may wait until Senator Morgan arrives, who
12 wants to make an introduction of our next appointee.

13 SENATOR MELLO: Mr. Chairman, may I be added to the
14 confirmation vote that was just taken?

15 SENATOR CRAVEN: Yes, for Mr. Kingston, and we'll
16 make that four-zero on Mr. Kingston. So ordered.

17 [Thereupon the Rules Committee
18 acted upon legislative agenda
19 items.]

20 SENATOR CRAVEN: Let's go now to Senator Morgan, who
21 wishes to make an introduction of S. Stephen Nakashima, Member
22 of the Regents of the University of California.

23 Senator Morgan.

24 SENATOR MORGAN: Thank you very much, Mr. Chairman
25 and Members.

26 SENATOR PETRIS: Mr. Chairman, I've been called for
27
28

1 special order in Health. Keep the roll open. It might be too
2 long.

3 SENATOR CRAVEN: We'll keep it open for you, Senator
4 Petris. You'll be back. That's all right; we have a quorum.

5 SENATOR MORGAN: Thank you.

6 It does give me a great deal of pleasure to present
7 to you Mr. Steve Nakashima. He has been an active, high quality
8 lawyer and businessperson in Santa Clara County since his
9 business in 1955.

10 I think he is an outstanding Regent. He understands
11 the value of our University system, and he has worked hard in
12 support of that system.

13 I think Mr. Nakashima is not highly partisan in his
14 behavior, having supported people in both parties. And I think
15 that he looks with the same fairness on the whole educational
16 system.

17 I feel very strongly personally that our councils,
18 and commissions, and committees in this state really need to be
19 reflective of the demography of California, and Mr. Nakashima
20 would be an excellent addition to represent Asian-Americans as
21 well as the entire population of California with the Regents.

22 SENATOR CRAVEN: Thank you very much, Senator Morgan.

23 Mr. Nakashima, we'll ask you, as we ask all of the
24 other nominees of the Governor, to tell us briefly why you feel
25 that you are qualified for this very responsible position.

26 MR. NAKASHIMA: I'm both a CPA and an attorney. And
27 the educational background for both professional qualifications
28

1 was obtained at the University of California at Berkeley.

2 I was a teaching assistant while I was at the law
3 school, a teaching assistant in the School of Business, teaching
4 accounting, so I know a little bit about the teaching part of
5 it, since I spent my time in the office of the professors while
6 I was attending law school.

7 I have four children. All four are products of the
8 University of California system. One went to Berkeley, two to
9 Davis, one to UCLA.

10 I know the problems of parents, the problems of the
11 children. I know the problems of the students because I was
12 there for over five years.

13 I also believe that I can contribute to the
14 University of California system because of the knowledge I have,
15 first-hand, of the problems of minorities. Now, when I say
16 minorities, I don't mean only Asian-Americans, because it's
17 difficult to understand the problems of minorities unless you
18 are a minority yourself.

19 For example, I was contacted immediately by various
20 Asian groups with reference to the problems of admission of
21 Asians to the University of California at Berkeley. My response
22 was that I could not explain the problems until I became more
23 familiar with them.

24 I did become more familiar with the problems, and I
25 find that there is a justification for the complaints, but then,
26 on the other hand, if you want to satisfy the complaints of one
27 group, many times it must come at the expense of another group.
28

1 I mentioned I understand the problems of minorities.
2 I sympathize and I bleed for the Hispanics and the Blacks and
3 the American Indians, because although they represent a large
4 portion of our state, they are not represented at the
5 educational level. This means that admitting some of the --
6 these individuals from the disadvantaged minority group will
7 also mean that other qualified, well-qualified, students from
8 the Asian community and the White community will have to
9 sacrifice their applications at Berkeley or UCLA.

10 But I find it very difficult for me to accept that as
11 a reason for denying access to Berkeley and UCLA to these people
12 of Hispanic background, Blacks, and the American Indians.

13 Statistics show that of 20,000 applicants at
14 Berkeley, 6,000 have 4.0 grades. They can only accept 3500, so
15 immediately we're short 2500 spaces.

16 And we have a policy, having spent, oh, about nine
17 months on the Board of Regents, to try to admit 30 percent to 33
18 percent of the entering class from this disadvantaged minority
19 group, which means another thousand of the 3500 that's to be
20 accepted must be excluded and room made for these others from
21 the disadvantaged minority group.

22 If my child had a 4.0 and was not accepted, I think I
23 would be very upset. I think each one of you would feel the
24 same way.

25 I do not blame all of these individuals for feeling
26 the way they do. But I do not accept the philosophy that just
27
28

1 because a child has a 4.0 average, you must disregard their
2 ethnic background and just accept them on the basis of grade.

3 I find also that there are justified complaints with
4 respect admission examinations. For example, 'if the
5 examinations, the SATs, were based strictly upon mathematics and
6 science, the Asians and the White students would really
7 dominate. But if the SAT examination is changed so that a great
8 weight is placed upon English composition or literature, then
9 even the Asians would suffer, because Asians coming from Asian
10 families do not have the background for that type of education.
11 They are much more along the engineering and scientific minds.

12 So, they do have some basis for complaints, but I do
13 not find that to be sufficient to justify their demanding a
14 larger number of admittees.

15 President Gardner of the University of California has
16 stated that $12\frac{1}{2}$ percent of high school graduates, the top $12\frac{1}{2}$
17 percent, will be accepted at the University of California
18 system. But of the graduating class of last year, 32 percent of
19 the Asians who graduated last year qualified for admittance to
20 the University of California system; 16 percent of White high
21 school graduates were eligible; 5 percent of Hispanics; and only
22 $4\frac{1}{2}$ percent Blacks. This is the top $12\frac{1}{2}$ percent.

23 I do not feel that we want to balance this in a way
24 so that the classes will be 32 percent Asians, and 16 percent
25 White, and 5 percent Hispanics, and $4\frac{1}{2}$ percent Blacks. I think
26 that's terrible. We have to admit more of the disadvantaged
27 minorities, and this is why I make this statement, knowing that
28

1 I may be called upon the carpet by the Asian organizations, but
2 I just feel that we must do something for them, because our
3 state is very diverse and contains a lot of Hispanics, the
4 largest group there is right now.

5 And I feel that, as a Member of the Board of Regents,
6 I would be able to contribute to the understanding of the
7 problems of admitting minorities, and explain to minorities the
8 problems that we all face to try to serve the students who want
9 to go to Cal.

10 SENATOR CRAVEN: Very good. Thank you very much,
11 sir.

12 Senator Mello.

13 SENATOR MELLO: Mr. Nakashima, you made an excellent
14 case of identifying the problem, but I didn't hear you really
15 say, you as a member of a minority group in the Asian
16 community, what are your plans to help change these numbers?

17 You are a Member of the Board of Regents currently.
18 How are you going to articulate what the needs are in order to
19 change the number around to have better -- where they're now
20 underrepresented -- to have more Hispanics, which make up 20
21 percent of our state's population, and Blacks, and American
22 Indians and others, to be admitted more readily to the
23 University?

24 MR. NAKASHIMA: We have to keep in mind that when we
25 talk about admitting, let's say, 30 percent of the entering
26 class from the disadvantaged minority group, we're not talking
27 about students who receive a 2.0 or 2.5 in high school. All of
28

1 those students who are accepted have at least a 3.4 or 3.5 in
2 high school, and to me, that's a very good grade.

3 And I think that we're going to have to take into
4 consideration the numbers of all ethnic groups, the diversity of
5 the state, the diversity of the University, the diversity of the
6 community. And this is a very difficult situation, because it
7 means that the number of students who are eminently qualified
8 will not be accepted. We have to have some other basis for it.

9 For my part, I love athletics. I believe that a
10 student who is a top athlete should have his talents recognized.
11 I think that should be taken into consideration.

12 I think that a participation by a student in, for
13 example, outreach programs -- my daughter went to Cal. for four
14 years, and I didn't know it, but for four years, she went to San
15 Francisco once a week to teach immigrant children English. I
16 think that I was more proud of that than anything else she did.

17 And I think that when a high school student, or a
18 student, takes part in activities of that nature, that should be
19 taken into consideration.

20 And, you know, if you take all 4.0s and accept them,
21 you're going to have nothing but a nation of egg-heads. We'll
22 have people who may not be able to deal with people.

23 SENATOR MELLO: They're not living in the real world.

24 I always go back to Howard Hughes, who dropped out of
25 school in the third grade, and he did pretty fair for himself.
26 I'm not recommending that for others, but the few 4.0s I know, I
27
28

1 think, have not done as well in our society as those that have
2 3.0s or 2s.

3 But regardless, personally what I think is needed is
4 an outreach program, helping, to go into the high schools,
5 making sure that a higher percentage of ethnic groups will have
6 access to our University.

7 I think they're entitled to it. They need it, and
8 the high dropout rate we're having now in high schools, and even
9 the high dropout rate in our University amongst the Hispanic
10 community is something we just can't tolerate.

11 MR. NAKASHIMA: You're absolutely right on that.

12 In attending the Affirmative Action Conference in San
13 Diego a couple of months ago for the University of California
14 system, I spoke to a Hispanic, a Mexican-American who is Vice
15 Chancellor in charge of some phase of the activities at UCSF.
16 I asked him, "How did you happen to go to the University and get
17 your Ph.D. and get to the position you're in?"

18 He said, "Steve, in the third grade, my third grade
19 teacher came to my home, told my mother that she should help and
20 get some books, and encouraged my mother to help me get an
21 education." He said, "That did it."

22 What I'd like to see is elementary school teachers
23 being in closer contact with the parents of these minority
24 children, and talking to them, and helping them, and encouraging
25 them, and showing them. I think we have to start in the
26 elementary school.
27
28

1 You cannot -- by the time they get to college, it's
2 too late.

3 SENATOR MELLO: Another question has to do with, in
4 May of 1988, the Latino Issues Forum made a study about the
5 problems that they're looking at in our post-secondary education
6 program, and they found that amongst 122 employees working for
7 the offices of the Board of Regents, of which you are a Member,
8 not a single Latino member is working in those offices.

9 MR. NAKASHIMA: That was in 1988?

10 SENATOR MELLO: Yes, May of 1988.

11 MR. NAKASHIMA: Now, I'm not familiar with the
12 statistics now, but I could check into that, because I'm sure
13 that there are some.

14 I know of several Hispanics who are at the Vice
15 Chancellor level at these various universities, and there's a
16 Black that I really love. His name is Khan -- anyway, we call
17 him Khan. He's the Vice Chancellor of Health Affairs at the
18 University of California for the whole system.

19 SENATOR MELLO: This is right in the Board of
20 Regents' offices, in your own offices.

21 MR. NAKASHIMA: That's right.

22 SENATOR MELLO: Out of 122 employees.

23 MR. NAKASHIMA: Well, we don't come into contact with
24 them individually, and I've been on the Board now for about nine
25 months, and have not had the opportunity of digging into all of
26 these.
27
28

1 SENATOR MELLO: Well, I will have Ms. Michel send you
2 a copy of this report and hope that you would look into it and
3 see whether or not there is some inequity.

4 Certainly, an office with 122 employees should have
5 at least some demographic balance between some of our different
6 nationalities that we have.

7 One final question, and I haven't heard much about
8 this recently, but a few years ago, they took action on funds
9 that they have that were invested in South Africa in
10 corporations. I know they came up with a whole policy at that
11 time, but they did not phase out their investments.

12 What is the present status of the funds under the
13 Regents?

14 MR. NAKASHIMA: A few years ago, they adopted the
15 policy of divesting the stock in these companies over a
16 three-year period. Two-thirds of the stocks have been divested,
17 and the last third will be divested this year.

18 This is something that I discussed personally with
19 the President, and so that we will no longer have stock in
20 South African countries [sic] after this year's divestment.

21 SENATOR MELLO: Thank you very much.

22 I can just say, Mr. Chairman, that he's widely known
23 in my area amongst the Japanese community and others in the
24 non-Asian community, and really respected. A lot of people did
25 contact me, urging his confirmation.

26 I asked you these questions because of the concerns
27 that you have and I have on things that I think have to be
28

1 changed, and I think that the Governor is appointing people from
2 different minority groups to be on the Board of Regents and
3 trying to change directions so we can be moving in a different
4 direction.

5 SENATOR CRAVEN: Senator Beverly.

6 SENATOR BEVERLY: I'm prepared to make the motion.

7 I note that not only does he have the support of the
8 Governor, witness the appointment, but he enjoys the endorsement
9 of the Lieutenant Governor, the President of the Senate. He has
10 bipartisan support.

11 Move the approval of the nomination.

12 SENATOR CRAVEN: Very well.

13 Does anyone in the audience wish to make any comment,
14 pro or con? There appears to be none.

15 Senator Beverly has moved. Call the roll, please.

16 SECRETARY WEBB: Senator Beverly.

17 SENATOR BEVERLY: Aye.

18 SECRETARY WEBB: Senator Mello.

19 SENATOR MELLO: Aye.

20 SECRETARY WEBB: Senator Petris. Senator Craven.

21 SENATOR CRAVEN: Aye.

22 SECRETARY WEBB: Senator Roberti. Three-zero.

23 SENATOR CRAVEN: The vote is three to zero, and we'll
24 leave the roll open to allow Senator Petris to vote as well,
25 Mr. Nakashima.

26 MR. NAKASHIMA: Thank you, gentlemen. Thank you very
27 much.
28

1 SENATOR CRAVEN: You're entirely welcome. Thank
2 you, and good luck in your undertaking.

3 [Thereupon this portion of the
4 Senate Rules Committee hearing
5 was terminated at approximately
6 3:00 P.M.]

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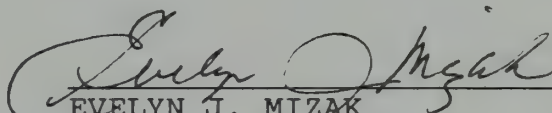
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I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of May, 1990.


EVELYN J. MIZAK
Shorthand Reporter

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APPEARANCESMEMBERS PRESENT

SENATOR DAVID ROBERTI, Chairman

SENATOR WILLIAM CRAVEN, Vice Chairman

SENATOR ROBERT BEVERLY

SENATOR HENRY MELLO

SENATOR NICHOLAS PETRIS

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

RICHARD R. BAYQUEN, Chief Deputy Director
Department of Developmental Services

ROBERT ZENZ, Legislative Advocate
California State Employees' Association

PARAS P. MEHTA, Member
State Board of Education

SEBASTIANO STERPA, Chair
Board of Directors
California Housing Finance Agency

KARNEY HODGE, Director
California Housing Financy Agency

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P-R-O-C-E-E-D-I-N-G-S

--oo0oo--

CHAIRMAN ROBERTI: We'll take up one of the Governor's Appointees, Richard R. Bayquen, Chief Deputy Director for the Department of Developmental Services.

We'll ask you what we ask all the Governor's Appointees, and that is why you feel you're qualified to assume this position?

MR. BAYQUEN: Good afternoon, Mr. Chairman. My name is Richard Bayquen. I have the honor and pleasure of being before you this afternoon for your consideration as Chief Deputy Director of the Department of Developmental Services, a very important position and serving the developmentally disabled of California.

In outlining why I believe that I am qualified for this position, I will touch briefly on my administrative and managerial experience in government, and also my interest and commitment in serving the developmentally disabled of California.

Just about all of my working career has been spent in California public service. During my career, I have had the opportunity to serve with six agencies and to be appointed to positions by both the Deukmejian and the Brown administrations.

My career in State government started in 1972, immediately upon my graduation from college. I had the good luck, the good fortune, of being hired by the Department of Finance as a Budget Analyst, where I learned the budget

1 processes of both the executive and the legislative branches of
2 government. I think this experience has been invaluable to me
3 in my subsequent assignments, because an important and
4 significant aspect of those assignments has been one of
5 developing budget proposals, advocating for and lobbying for
6 additional dollars to meet expanding work loads and case loads,
7 and to improve the services and services for which I had
8 responsibility.

9 In 1977, I joined the Health and Welfare Agency as
10 the Deputy Secretary for Fiscal, where I worked with and learned
11 about virtually every Health and Welfare program, including
12 developmental disabilities. This experience serves me well
13 today. The Department of Developmental Services works with
14 Medi-Cal, with Licensing, and the Department of Rehabilitation,
15 to name a few.

16 In 1980, I joined the Youth and Adult Correctional
17 Agency as their Deputy Secretary for Fiscal, serving then-Agency
18 Secretary Howard Way. Later that year I was appointed Deputy
19 Director of Administrative Services for the Department of
20 Corrections, which was just starting to grow at that time, and
21 in this capacity I was a key manager in a very large and complex
22 organization. But more importantly, I learned the intricacies
23 of budgeting for an operation that operates 24 hours a day, 365
24 days per year.

25 In 1987, I was appointed Chief Deputy Director of the
26 Department of Alcohol and Drug Programs, once again working in
27 the health and human services field. In this capacity I had the
28

1 opportunity to be involved in the development of treatment and
2 care programs and prevention programs.

3 I believe that my extensive experience, Health and
4 Welfare experience, and my experience in large and complex
5 organizations has prepared me for the duties of Chief Deputy
6 Director of the Department of Developmental Services.

7 Secondly, and just if not more importantly, I
8 personally bring an interest and commitment to serving the
9 developmentally disabled. I am very proud of my many years in
10 public service, and I can think of no more important role for
11 California government than to provide for the treatment, the
12 care, and the personal growth of those who are developmentally
13 disabled.

14 Working in this field is very challenging, at times
15 very difficult. Many of the clients we serve present the most
16 difficult medical, behavioral, and treatment and care needs
17 imaginable. By its nature, the developmental disabilities
18 field is a very emotionally charged arena, the most so that I
19 have worked in.

20 However, I believe I bring an understanding and
21 sensitivity to the needs, the fears, and the hopes, and the
22 dreams of the clients we serve, and those who work with the
23 developmentally disabled, and those who advocate on their
24 behalf.

25 I've tried to keep my statement brief. I'll be happy
26 to answer any question the Committee has.

27 CHAIRMAN ROBERTI: Thank you, Mr. Bayquen.
28

1 Are there any questions? Senator Petris.

2 SENATOR PETRIS: We seem to be having a lot of
3 problems: reports of abuse of children at various times during
4 the year. There was a problem last spring that received some
5 publicity.

6 You were quoted in April of last year as saying:

7 "We do the best job we can with the
8 resources we have. And we do meet
9 the minimum licensing and
10 certification standards with the
11 resources we have."

12 End quote.

13 So, you underlined the "resources we have" each
14 time. Does this suggest that there's a shortage of
15 resources, either in personnel, or equipment, or facilities,
16 or money?

17 MR. BAYQUEN: In that interview that I did with the
18 Sacramento Bee last year, I spent about an hour and a half,
19 and that was one of the two or three quotes that they used in
20 their article.

21 But I think I was very candid with them, that part
22 of the difficulties that we have in operating 24-hour care is
23 the salary savings requirement that we and other State
24 agencies have had to deal with. It would be easier if we did
25 have additional dollars.

26 I'm not saying something I haven't said before,
27 sir.
28

1 SENATOR PETRIS: How much more, or how many bodies
2 more do you need?

3 MR. BAYQUEN: At the current time, I believe our
4 effective salary savings requirement is probably pushing
5 approximately 9 percent, when you take into account the
6 number of operating expenses and equipment items that we're
7 not adequately funded for.

8 I think the number should probably be closer to 5
9 percent effectively. I think -- as I recall, 1 percent
10 equates to approximately \$4.5 million in our budget.

11 SENATOR PETRIS: Do you take part in the budget
12 planning?

13 MR. BAYQUEN: Yes, sir.

14 SENATOR PETRIS: When you're appointed to this
15 position, do you meet with the Governor?

16 MR. BAYQUEN: Not personally, sir. I do not.

17 SENATOR PETRIS: How are you informed? By letter?

18 MR. BAYQUEN: No, we --

19 SENATOR PETRIS: Or your boss?

20 MR. BAYQUEN: Yes, the decision's back either from
21 the Department of Finance or through the Health and Welfare
22 Agency. We receive our notices through those two
23 organizations.

24 SENATOR PETRIS: When you were appointed, you'd
25 been Acting Deputy Director for about a year?

26 MR. BAYQUEN: Acting Chief Deputy Director, yes,
27 sir.
28

1 SENATOR PETRIS: Did you make any complaints at the
2 time about the shortage to the Governor or the overall head
3 of the Department?

4 MR. BAYQUEN: I would like to characterize it more
5 that we presented what we believed to be our needs. We did
6 the best job we could in putting together a good and
7 professional document, and we advocated very strongly within
8 the administration for that which we felt was needed.

9 SENATOR PETRIS: But you didn't get what you
10 needed.

11 MR. BAYQUEN: We never get everything we ask for,
12 sir.

13 SENATOR PETRIS: That seems to be true of just
14 about all the agencies, but this one is particularly
15 critical, it seems to me.

16 I guess once the decision's made, and the
17 Department of Finance says this is how much we're going to
18 provide, that's really the end of the trail. You don't have
19 any appeal from that, other than the Governor.

20 MR. BAYQUEN: Those are final decisions that we get
21 from the Governor.

22 SENATOR PETRIS: Well, I'm wondering, when a person
23 goes into a job like this, knowing about the shortages, and
24 knowing about the policy, I mean, I don't know where this 9
25 percent salary savings comes from. Is that in the
26 Constitution of the U.S. or the State?

27 It's a policy; isn't it? It's a policy decision
28

1 that comes from the Director of Finance.

2 SENATOR CRAVEN: Administrative policy.

3 SENATOR PETRIS: Administration policy.

4 MR. BAYQUEN: I think it's a policy, but also to a
5 great extent, a function in terms of, overall, what they feel
6 that they can afford to give us versus another State agency.

7 SENATOR PETRIS: So, going in, you know you're
8 handicapped from the very beginning, and you have to make a
9 choice whether to accept this job with that handicap, and
10 still do the best you can, or say, "Look, I can't do it with
11 these limited resources."

12 MR. BAYQUEN: Yes, sir.

13 SENATOR PETRIS: Does that cross your mind?

14 MR. BAYQUEN: Yes, sir.

15 SENATOR PETRIS: And your colleagues as well, I
16 assume.

17 MR. BAYQUEN: I believe so.

18 SENATOR PETRIS: But your opportunity to express
19 your desire on that is really about once a year when budget
20 time comes around.

21 MR. BAYQUEN: We -- hopefully, I think the
22 Department of Developmental Services makes their voice heard
23 more frequently than that.

24 SENATOR PETRIS: How do you do it?

25 MR. BAYQUEN: We do it during the fall through the
26 budget process, but then also in January, again the budget
27 process. Internally we have the possibility of Department of
28

1 Finance amendment letters. Then again through the May
2 revision.

3 There may also be legislation that comes down that
4 addresses the issues that we have an interest or a concern
5 about, and of course, then we have an opportunity to do our
6 analysis of that legislation and make our recommendations to
7 the Governor.

8 And so -- and we always make our thoughts and
9 opinions known to the Health and Welfare Agency's Secretary
10 and to the Department of Finance. I mean, we are not shy
11 about doing that.

12 SENATOR PETRIS: So internally, you're constantly
13 pushing to get the resources that the Department needs?

14 MR. BAYQUEN: Yes, sir. Absolutely.

15 SENATOR CRAVEN: They have also a constant reminder
16 from the people in the field who are chosen to carry out the
17 programs, and these people have operated -- I don't know how
18 they operate, frankly, because they have so little money to
19 do what is necessary. It's somewhat miraculous that they do
20 as much as they do.

21 But the Department has, in my judgment, been
22 woefully underfunded; programming is woefully underfunded.

23 I think that each year, regularly for the last ten
24 years, perhaps, I've made requests of the administration in
25 the Budget Committee, and so forth, to try to increase the
26 rate structure for these providers, which this gentleman is
27 very, very familiar with, and the Department has always been
28

1 very cooperative, very understanding. They have tried their
2 best.

3 So, I think that the questions that Senator Petris
4 asked were certainly very germane, and I think the responses
5 were very, very candid and correct.

6 SENATOR PETRIS: It's very distressing to me to
7 have a marvelous statute that carries the name of Frank
8 Lanterman. Before I ever got here, he was a very tough,
9 two-fisted Chairman of the Social Welfare Committee in the
10 Assembly, and in later years, Vice Chairman of the Committee
11 on Ways and Means.

12 And he was very conservative on his economic
13 policies, but when it came to this kind of thing, he just
14 just moved heaven and earth to try to get adequate resources
15 to do the job. You know, I revere the man for that, not only
16 in this developmentally disabled field, but in many aspects
17 of mental health, and medicine, and so forth.

18 I'm trying to understand the mindset that says no.
19 And frankly, you're the only person I can talk to. I don't
20 get to talk to the Governor, and you don't make policy; you
21 have to carry it out.

22 But when some of us are pushing legislation to
23 provide you with the resources, we get belted with the old
24 bromide that says, "Well, there you are. The tax-and-spend
25 Democrats. All they want to do is tax and spend."

26 Well, we ought to tax if that's necessary to get
27 you the resources to do a decent job where you are. And I
28

1 just resent the climate and the attitude under which I'm
2 working and under which you are compelled to work. I'm
3 amazed that professionals hang on and try to do a job under
4 those circumstances.

5 We've been through it for years. It isn't today or
6 yesterday. It goes back many, many years.

7 Well, I suppose the most you can do is just keep
8 pushing internally to try to get the resources you need.

9 Have you been labeled a tax-and-spend advocate?

10 MR. BAYQUEN: No, sir.

11 SENATOR PETRIS: Not yet.

12 Let me ask, would you have an estimate of how much
13 money would be required to bring you up to an adequate
14 staffing pattern? Do you remember that from your
15 deliberations?

16 MR. BAYQUEN: At this point, Senator Petris, that
17 would be very, very much a guess.

18 In the budget deliberations, the analyst
19 recommended -- Legislative Analyst recommended, and we have
20 wholeheartedly agreed, that we need to do a new staffing
21 study on our developmental centers. And we are undertaking
22 that effort. We have a very ambitious time table.

23 You know, very frankly, though, I suspect we're
24 talking about tens of millions of dollars. The staffing
25 standards that we operate under today are years and years
26 old, and the just the nature of the business that we're in
27 has changed. We have a lot more technology-dependent
28

1 children today than we did five years ago, and where ten
2 years ago, we didn't have children in our developmental
3 centers who were dependent on ventilators to continue their
4 lives.

5 We need to do that, and we're looking at it, and
6 we've made -- shared that with the Legislature, and I think
7 they have complimented us on the work plan and the time table
8 that we've laid out.

9 SENATOR PETRIS: Do you have any comment to make on
10 the articles that I mentioned before that reported on some of
11 the abuses and neglect? Has there been any improvement, or
12 is that just due to shortage of personnel?

13 In one of your comments, you said that in this kind
14 of a patient, you need practically a one-on-one, which, of
15 course, is pretty difficult to do, I realize. But you need
16 more people.

17 MR. BAYQUEN: I believe there have been
18 improvements.

19 First of all, I believe part of the problem at
20 Sonoma Developmental Center dealt with a management problem.
21 We've addressed that issue.

22 Part of the problem was one of resources, and we
23 did push through the Section 28 process, utilizing additional
24 Medi-Cal dollars that we had received, to get the expenditure
25 authority for approximately an additional \$6.6 million in the
26 current year for our developmental centers, which allowed us
27 to lessen our salary requirement, which allowed us to put
28

1 more people out on the units where the clients need the
2 treatment, they need the care.

3 A couple of other comments. I spent an awful lot
4 of time with the Bee reporter, and at times I thought there
5 were legitimate and valid issues where, yes, in fact some
6 unfortunate situations had occurred.

7 But there were some other reports in the Bee where
8 I thought that they were outrageous in their reporting, and
9 they had no truth; they had no fact behind some of their
10 reports.

11 Case in point, they asserted that there had been a
12 sexual molestation that had taken place on one of our young
13 clients at Sonoma. And what had in fact occurred, we had two
14 young male clients who got into a scuffle, who got into a
15 fight. One bit the other in the genital area, and that's
16 what was reported as a sexual molestation.

17 The way I read and understand the law, that is not
18 a sexual molestation. You had two 10-12 year old kids that
19 were, unfortunately, fighting and scuffling, but sexual
20 molestation --

21 SENATOR PETRIS: Just wasn't part --

22 MR. BAYQUEN: -- couldn't be further from the
23 truth.

24 And so, I think there were some things that, you
25 know, that were appropriate, were valid, were legitimate.
26 Other things, I think, they took great licensure.

27 SENATOR PETRIS: I understand a lot of community-
28

1 based facilities have been closing down, and that means the
2 transfer of those children to a developmental center.

3 What's the reason for their closing?

4 MR. BAYQUEN: The reasons are many. First of all,
5 unfortunately, many of these small providers don't have the
6 business background, the business experience, to run some of
7 these operations.

8 The rates that we pay, it's very difficult; it's
9 very tough.

10 SENATOR PETRIS: What's the rate?

11 MR. BAYQUEN: Depends on the type of facility. If
12 it's an ICF DD facility of a 59-bed or larger, it's
13 approximately \$62 a day. If it's an ICF DDH provider -- I
14 believe you met with some of those people -- those are six
15 beds, they're paid approximately \$82 a day. If it's an ICF
16 DDN, which again is a small facility but is also taking care
17 of those young clients who have severe medical needs, it's
18 \$118 dollars a day.

19 We can go into community care facilities where the
20 range would vary from literally approximately \$1,000 per
21 month to approximately \$3800 per month, depending on the
22 particular needs of the individual client.

23 So, it ranges, but as you get more money, you have
24 to provide more service, you have to provide more treatment
25 and care.

26 SENATOR PETRIS: So, they're not able to make it on
27 whatever rates you're paying.
28

1 MR. BAYQUEN: Some can; some can't. And if you're
2 not one of the best in terms of operating a business, in
3 terms of watching each and every one of your dollars, each
4 and every one of your nickels and dimes, you're going to have
5 a difficulty.

6 SENATOR PETRIS: What, if anything, can the
7 Department do, or what should it do, to reverse this trend?
8 Do we need to train people? Do we need to provide more
9 money? What do we need to do to turn this around?

10 MR. BAYQUEN: I think the long-term part of the
11 solution will be in money. I think eventually the rate has
12 to be where the marketplace provides -- or the product
13 provides the service that we need, and that there are enough
14 of those providers out there willing to provide the services
15 to the clients that we serve.

16 I think, too, that long-term, that there are a lot
17 of people who get into the business, who get into the field,
18 because of a personal interest, and if we had the capability
19 of giving them more assistance, more technical assistance --
20 be it in terms of the business operation, be it in terms of
21 clinical care and treatment -- that would be helpful, because
22 all of our providers in the community do have to meet the
23 requirements of licensing and certification, be it the
24 Department of Health Services licensing, or the Department of
25 Social Services licensing for community care facilities. And
26 those requirements can be very demanding, and they can be
27 tough, and reading the rules and regulations of State
28

1 agencies is not always the easiest thing for people out there
2 to do and to understand, and to translate that into the
3 services that they provide to the clients.

4 SENATOR PETRIS: Last year, the Department tried to
5 save \$28 million from the general fund in the hope that the
6 feds would provide the money through their program, but the
7 feds said no, and that caused us to go into deficiency
8 legislation.

9 I see they're doing that again this year. Do we
10 have any more encouraging information that the feds will
11 provide the difference, or are we taking another flier at
12 failure?

13 MR. BAYQUEN: The budget, I think, in assuming
14 those federal dollars, is optimistic. The dollars are so
15 tight that, unfortunately, we have to have this optimism.

16 I was in Washington, D.C., and that was one of two
17 issues that I was back on and met with Senator Cranston's
18 office and Senator Wilson's office on that particular issue.

19 We, the Department, we are doing everything we can
20 back in Washington, because whether or not you agree with
21 what we have done, we still firmly believe that California,
22 under Medicaid law, is entitled to those dollars, and that
23 the federal government -- that the health care financing
24 administration to an extent is balancing their budget on the
25 developmentally disabled of California.

26 At this point I cannot point to -- or I cannot say,
27 based on my meetings back there, that there is anything to
28

1 make me more optimistic, but it's my job to keep trying.

2 SENATOR PETRIS: That's an interesting comment, and
3 I think you're courageous to say it, but I'm afraid it's
4 true. They're balancing the budget on the backs of the
5 developmentally disabled.

6 That's so they can keep hollering "tax and spend,"
7 you see. President Bush says, "No taxes," on the highways
8 and transportation, for example. Then he turns around and
9 says to the state, "I have a great new innovative program.
10 You pay for it." So, there's no federal tax, but there's a
11 new State tax that's required to keep pace.

12 Now they're saying no to this \$28 million. Where
13 are we going to get the money this year? Are we going to
14 have another deficiency bill? Will that work?

15 MR. BAYQUEN: The way it looks like it'll come down
16 is that it will be -- my guess is that it'll be augmented in
17 the general fund on both sides.

18 SENATOR PETRIS: Now, the Department's planning to
19 get a little more money by charging the parents in these
20 cases a sliding scale to get about \$5 million. Is that
21 definite? Is that plan going ahead, or is that just in the
22 discussion stage?

23 MR. BAYQUEN: That was proposed in the Governor's
24 budget. The administration has not been successful in
25 getting an author for such legislation.

26 SENATOR PETRIS: It would require a change in the
27 Lanterman Act; wouldn't it?
28

1 MR. BAYQUEN: Yes.

2 SENATOR CRAVEN: They had an author, and I happened
3 to be that author. But when I saw the language which they
4 wished to put in the bill, I told them I wouldn't carry the
5 bill.

6 SENATOR PETRIS: They got the wrong author.

7 Do the outside private advocates -- at the local
8 level they have ombudsmen. I've worked closely with them.
9 They're a private group, and they go into the nursing homes;
10 they go into other facilities to check them out and see that
11 everything's okay. And some places, they have an awful time
12 getting in.

13 At your level, we have what's called Protection and
14 Advocacy, Inc. That's one of them.

15 Have there been any problems in cooperating with
16 them or vice versa to give them an opportunity to kind of
17 offer their assistance and get information to see how things
18 are going in the developmental centers?

19 MR. BAYQUEN: As a result of the Sacramento Bee
20 stories which ran last year, Protection and Advocacy did
21 launch an investigation at Sonoma Developmental Center.

22 In our legal opinion, in terms of what they had
23 asked for in terms of access to certain records which we
24 believe strongly are protected by client confidentiality
25 laws, we were not able and did not give them all of the
26 records that they had asked for.

27 At the time there was controversy. I think that
28

1 after our attorneys had a chance to sit down and chat with
2 them more, that they, too, recognized that both State law and
3 federal law under which they operate did not give them total
4 access to all of the records that they asked for.

5 As a result, Senator McCorquodale is carrying a
6 piece of legislation which would give them more authority
7 and, in my opinion, give them some of the authority that they
8 had asked for last fall which they did not have at that time.

9 SENATOR PETRIS: Is that a good policy?

10 MR. BAYQUEN: Well, I think the first thing we have
11 to keep in mind is the client's right to confidentiality.
12 And I think that's first and foremost, that clients, that
13 their families, if they so desire, that they have a right to
14 that confidentiality.

15 Investigations of wrong doings, be it in
16 developmental centers or community care facilities, et
17 cetera, obviously, that's important, and it's one of those
18 areas where it's very difficult. You have to strike a
19 balance in terms of the need to investigate, the need to
20 protect, the need to make sure that these people aren't
21 abused, with the rights that people have for privacy.

22 It's a real tough issue, and it's one that is
23 before the Legislature at this time.

24 SENATOR PETRIS: Do you think the bill itself is a
25 good bill?

26 MR. BAYQUEN: We've got some -- we think that the
27 bill goes a little too far. We think, again, first and
28

1 foremost that people, the clients, their families, do have a
2 right to confidentiality. If, in fact, they do decide to
3 release certain records that are now held confidential to
4 P&A, that's fine, but they should have that right --

5 SENATOR PETRIS: They should have the right.

6 MR. BAYQUEN: -- to make that decision.

7 SENATOR PETRIS: But under the present law, even if
8 they gave their approval, it couldn't be done; right?

9 MR. BAYQUEN: No, I don't believe that's correct.

10 I believe that parents, conservators, or clients
11 could give access to records. There would have to be signed
12 consents.

13 As I recall, Protection and Advocacy was basically,
14 though, asking for carte blanche access to records without
15 written consents, sir.

16 SENATOR PETRIS: I need to say that that's all the
17 questions I have, Mr. Chairman.

18 I think you're in a very difficult spot there.
19 I've checked out your record. You've got a splendid record
20 of service in this state, and that includes your time here in
21 this particular job and in that Department. I'd like to see
22 you continue doing it.

23 In the climate that we're talking about, you're
24 really working under a terrible handicap. I don't see how in
25 the world you do it, but I wish you well.

26 Thank you.

27 CHAIRMAN ROBERTI: Thank you, Senator.
28

1 Senator Mello.

2 SENATOR MELLO: Thank you.

3 Senator McCorquodale could not be here today, but
4 he sent me a letter and some questions that he wanted me to
5 ask on his behalf.

6 I think that everyone knows there's problems there.
7 The question is, how do we try to address these problems and
8 try to come up with some solution?

9 It's been since my good friend and colleague,
10 Senator Petris, who teamed with Frank Lanterman that we
11 finally got a program that was built up to where it was back
12 in the '70s, and then we went through a series of real
13 neglect.

14 You said that the DD program is emotionally
15 charged, and I subscribe to what Senator Craven says: it
16 hasn't been funded. It's been neglected, not only by this
17 Governor, but even the previous Governor, Jerry Brown, and
18 others. There's been a lack of commitment there, and I
19 really think it's in a sad state of affairs.

20 We have little or no program right now, and it
21 needs just an injection of new leadership, and maybe you're
22 that person. But instead of not meeting with the Governor,
23 I'd be fired by him, because I wouldn't sit still. I'd be
24 down there, pounding on the door to try to get adequate
25 funding there.

26 You said something about we need another study,
27 that there's another study being done, or we need to study
28

1 the situation to see how we do it.

2 Senator McCorquodale points out there's been a
3 study that was just released this spring on dual diagnosis of
4 developmental and mental disabilities and mental illnesses,
5 and that study came in three years late from when it had been
6 prescribed by the Legislature. And it comes up with major
7 shortcomings in the report.

8 But I think the response to it by the
9 administration has been that there be no fiscal impact in
10 implementing these recommendations if they were to be
11 implemented.

12 Do you want to comment on that statement?

13 MR. BAYQUEN: I had an opportunity to testify
14 before Senator McCorquodale at an SR 9 hearing in Santa
15 Barbara on this very issue. At that time, he and Senator
16 Marks expressed great displeasure with the Department, with
17 the administration, because the report was late.

18 As I shared with those gentlemen at that time, the
19 Department completed the report; completed it in a timely
20 fashion, and passed it on to the administration in a time
21 where it could have been released.

22 SENATOR MELLO: Did you say timely fashion?

23 MR. BAYQUEN: Yes, sir.

24 SENATOR MELLO: According to Senator McCorquodale,
25 the study came in three years late.

26 MR. BAYQUEN: In terms of it finally being released
27 by the administration.
28

1 SENATOR MELLO: So, they held it for three years
2 before releasing it?

3 MR. BAYQUEN: Yes, sir.

4 SENATOR MELLO: Wow.

5 Do you know why they held the report for that long
6 a period of time?

7 MR. BAYQUEN: I can't speculate as to that, sir.

8 SENATOR MELLO: So, at any rate, that's kind of
9 shocking that anyone would hold a report that long without
10 responding to it. I mean, three years is a long period of
11 time.

12 What are your findings with the report yourself,
13 and do you agree with them or disagree?

14 MR. BAYQUEN: The report and, I think, also my
15 testimony at the time indicated that there are some special
16 and additional needs to serve those people who have a dual
17 diagnosis of a developmental disability and also a mental
18 health problem; that the traditional program, be it on the
19 mental health side or on the developmentally disabled side,
20 can't effectively meet the needs of someone who suffers from
21 both conditions.

22 SENATOR MELLO: Are you asking the administration
23 for more funding, then, even though we have a tight budget
24 year? What is your position as far as funding for your
25 Department?

26 MR. BAYQUEN: Senator, we make our needs known.

27 SENATOR MELLO: You have made them known to the
28

1 administration?

2 MR. BAYQUEN: Yes, sir.

3 SENATOR MELLO: What was their response to it?

4 MR. BAYQUEN: Money's tight.

5 SENATOR MELLO: That's the same response we've
6 heard for the last decade.

7 It appears that there's a lawsuit against the
8 Department to try to have them perform, at least on the
9 regional center operations and other operations within your
10 Department. How are you responding to the lawsuit?

11 MR. BAYQUEN: At this time, Senator, that lawsuit
12 was just recently filed. I don't believe that Protection and
13 Advocacy, on behalf of the class, has done anything more than
14 to file that in San Francisco Superior Court.

15 Really, at this point we're just meeting and
16 conferring with our lawyers, with our co-defendant the
17 Department of Finance, on that issue. Until we get a better
18 sense of exactly what it is Protection and Advocacy and the
19 plaintiffs -- what they're going to be doing, when, we're
20 just preparing as best we can to defend against that
21 lawsuit.

22 SENATOR MELLO: You acknowledged that there is a
23 serious problem in that Department, and Senator McCorquodale
24 and Assemblyman Polanco held some 16 statewide hearings.

25 Did you read the transcript of the hearings? I
26 know you've been appearing at some of them.

27 MR. BAYQUEN: I appeared at some.
28

1 I have not read all of the transcripts. I'm, in
2 general, aware of the gist of the testimony at all of those
3 hearings.

4 SENATOR MELLO: There's an article in the L.A.
5 Times regarding a mentally retarded client that became
6 pregnant with an unidentified partner and was forced to have
7 an abortion against her will and against the will of her
8 mother.

9 You're aware of that, down at Camarillo
10 Developmental Center?

11 MR. BAYQUEN: Yes, sir.

12 First of all, it is my understanding that the San
13 Diego Regional Center, the lady is a client of that regional
14 center, although she was at Camarillo. But they did secure a
15 verbal consent from the mother. Unfortunately, for whatever
16 reason, we do not have a written consent for that abortion.

17 However, the lady whom the abortion was performed
18 on was or is also an adult, so at least technically, in terms
19 of the requirements of the law, we did not have to seek that
20 consent.

21 I have been told in no uncertain terms by both
22 Camarillo and also staff who have chatted or talked with the
23 San Diego Regional Center that they clearly had consent from
24 the mother, and in fact they took great pains to make sure
25 that they took someone with them who could speak Spanish to
26 make sure that there was no question, that there was no doubt
27 in terms of communication.
28

1 SENATOR MELLO: Even as you stated, though, under
2 the law, an adult is not required to have consent from their
3 mother or their father or any parent for having an abortion.

4 MR. BAYQUEN: Right.

5 SENATOR MELLO: And the court overturned minors
6 requiring parental consent.

7 What I'm trying to find out is, whose policy is it
8 to force an abortion on someone against their will?

9 MR. BAYQUEN: It was, as I understand, sir, it was
10 a situation where there was a diagnosis. A sonogram had been
11 performed. The fetus was very deformed, and also in the
12 judgment of the physicians, that to carry the pregnancy to
13 term, in addition to the problems with the fetus being
14 deformed, could have presented some serious danger to the
15 health and safety of the mother.

16 But regardless of that, again, the San Diego
17 Regional Center, as I have been told, had definitely got a
18 verbal consent from the mother, contrary to what she has
19 reported to the Los Angeles Times. And as I understand it,
20 there were a number of people who were a witness to that
21 verbal consent, sir.

22 SENATOR MELLO: Even though, I guess, a person in
23 your Department by the name of Don Bowling has indicated to
24 legislative staff that the case was closed and they did not
25 want to comment any further on it.

26 MR. BAYQUEN: I think what he was talking more
27 specifically about was the investigation as to the rape of
28

1 the client.

2 Unfortunately, the fetus, after it had been
3 aborted, the physicians immediately put the fetus in
4 formaldehyde. A DNA sample could not be taken.

5 This client had, in addition to being in Camarillo
6 Developmental Center, had been in the community. The
7 possibilities in terms of men who may have had access to her
8 to perpetrate this crime, the list would be -- would be very,
9 very long. We had no probable cause to go to a court to seek
10 a court order to request to draw blood even if we did have a
11 DNA result. And unfortunately, as many times in the case
12 where you do have a mentally retarded client, or client who
13 is not verbal, the investigation did come to a dead end.

14 SENATOR MELLO: I'm surprised they didn't get
15 somebody to sign on the dotted line. They're usually so
16 careful on sensitive issues like this.

17 I think the State, or somebody, could be sued. You
18 could be sued for anything anyway, but in this case here,
19 without somebody's express written consent, having authority
20 to do so -- in this case, the mother had no legal authority
21 to do that.

22 I just want to say that I think, as Senator
23 McCorquodale pointed out and Senator Petris, there's some
24 real problems in this Department. It's not your fault,
25 apparently, and I don't want to imply that I'm blaming you
26 for it.

27 I served on a mental health advisory board when I
28

1 was a county supervisor, and I helped form some community-
2 based programs. And I saddened by what we're doing. We turn
3 people out of our institutions, and we're supposed to treat
4 them in a community-based program, but they all end up on the
5 streets as homeless, most of them. No one seems to care too
6 much, and one of these days it's going to explode into a
7 major situation that all of us are going to be at blame for.

8 MR. BAYQUEN: Senator Mello and Senator Petris,
9 there have been some problems; there have been some
10 difficulties.

11 But I do need to say on behalf of the staff who
12 work for us in the developmental centers, the people who
13 provide services out in the community, there are a lot of
14 good people, and there are a lot of good things, too, that
15 happen. But unfortunately, there are some things that
16 shouldn't occur that do, and those, unfortunately, are the
17 things that hit the headlines.

18 But we have a lot of good people in the
19 Department. We have a lot of good people in the field, and
20 there are a lot of good things that are happening for the
21 developmentally disabled of California.

22 I think both sides need to be heard, if you will.

23 SENATOR MELLO: As you indicated, we need an
24 infusion of money and commitment and priority to these
25 programs. I think we're not getting that.

26 Thank you, Mr. Chairman.

27 CHAIRMAN ROBERTI: Any further questions of
28

1 Mr. Bayquen?

2 Is there any opposition in the audience?

3 SENATOR CRAVEN: Move the nomination of
4 Mr. Bayquen.

5 CHAIRMAN ROBERTI: Senator Craven moves the
6 nomination be recommended to the Floor.

7 Please come forward.

8 MR. ZENZ: Thank you, Mr. Chairman and Members.
9 No opposition. I'm Bob Zenz, representing the
10 California State Employees Association.

11 We're here to support this nomination.

12 We'd be the first to complain, Senator, as we have
13 in the past when we feel the Department's not doing a good
14 job.

15 We've monitored those hearings you spoke about with
16 Senator McCorquodale, and we've been following the lawsuit
17 that's been filed. And our perception of that is that the
18 4,000 people in the State Hospital system that the lawsuit
19 identifies should be in community programs, it's not because
20 the Department's dragging their feet. There's no community
21 programs to put those people in.

22 So, we feel -- we've worked very closely with
23 Mr. Bayquen over the last several months, and we do not
24 always agree with the Department, but he's been very
25 professional, has a lot of integrity. He's been very helpful
26 to us, and we feel that that's the kind of people that we
27 need to run these programs.
28

1 Thank you.

2 CHAIRMAN ROBERTI: Thank you very much.

3 The motion is before us. Secretary will call the
4 roll.

5 SECRETARY WEBB: Senator Beverly.

6 SENATOR BEVERLY: Aye.

7 SECRETARY WEBB: Senator Mello. Senator Petris.

8 SENATOR PETRIS: Aye.

9 SECRETARY WEBB: Senator Craven.

10 SENATOR CRAVEN: Aye.

11 SECRETARY WEBB: Senator Roberti.

12 CHAIRMAN ROBERTI: Aye.

13 The vote is four to nothing; confirmation is
14 recommended to the Floor.

15 Congratulations.

16 [Thereupon the Rules Committee
17 acted upon legislative items
18 on the agenda.]

19 CHAIRMAN ROBERTI: The next Governor's Appointee is
20 Paras P. Mehta, Member of the State Board of Education.

21 Mr. Mehta, we'll ask you what we ask all the
22 Governor's Appointees, and that is why you feel you're
23 qualified to assume this position?

24 MR. MEHTA: Thank you, Mr. Chairman and Members of
25 the Committee. My name is Paras Mehta, and I'm the
26 Governor's Appointee to the position of student member of the
27 State Board of Education.
28

1 I believe that my qualifications for this position
2 stem from my involvement with public education, perhaps at
3 the closest level possible, and that as a client of that
4 system for the past 12 years. I've been a student in
5 California --

6 CHAIRMAN ROBERTI: I was looking to see what your
7 party affiliation was, but you're too young to be registered.

8 SENATOR CRAVEN: He's not old enough. He's only 17
9 years old.

10 MR. MEHTA: That's right, no affiliation.

11 Again, as a client of that system, I've been
12 enrolled in California public schools since kindergarten and
13 throughout my life, therefore.

14 But aside from that, I've also been closely
15 involved in representing students. On the State board, in
16 addition to taking the issues that come before us, as a
17 student, and using my own discretion, one of my roles is to
18 represent the views of students across the state.

19 I have been working in student government for the
20 past two years at my own high school, but I've also had a lot
21 of interaction with students, not only at the high school
22 level, but at elementary and junior high school levels, and
23 at all levels of achievement. I've worked through
24 organizations at the school to implement science partnership
25 programs at the elementary school level, trying to get
26 elementary school children interested in science subject
27 areas. I've also worked with junior high school students on
28

1 a special academic team that encompasses not only honors
2 level students, but students at all levels of achievement.

3 So, through my experiences in student government,
4 as well as my involvement in a variety of activities, I think
5 the contacts that I have gained through students at all
6 levels of achievement and with students from elementary
7 schools through high school, make me a credible
8 representative of students on the State Board of Education.

9 CHAIRMAN ROBERTI: Thank you, Mr. Mehta.

10 Any questions?

11 SENATOR CRAVEN: Move Mr. Mehta.

12 CHAIRMAN ROBERTI: One of the issues that has
13 confronted the State Board of Education -- Senator Craven has
14 made a motion -- is the teaching of creationism.

15 What is your position on that?

16 MR. MEHTA: When the State Science Framework came
17 for approval before the Board, there were certain changes
18 made to the final document on the issue of creationism and
19 the teaching of evolution.

20 My belief is that in public education, science
21 should be taught with the strongest possible theories that
22 back it up. And I believe that evolution is a scientific
23 explanation, the scientific explanation, arrive at through
24 scientific means and scientific processes.

25 I believe in a science classroom, the purpose of
26 education is to present the scientific method and those
27 theories that are arrived at using that method. I think that
28

1 evolution -- the evolutionary theory and process is one such
2 theory, and that it should be presented in the point of view
3 that evolution, as in the sense of change occurring through
4 time, is a fact that we have observed through the
5 evolutionary record, and that the Darwinian theory is the
6 theory used by scientists to explain that change.

7 When the Framework came out, I spoke against some
8 of the changes that had been made which I felt had weakened
9 the statement of evolution. in the end, though, I approved
10 of the -- I voted to approve the Science Framework, largely
11 because I felt it was a very strong document in its entirety,
12 and also because its treatment of evolution was still, I
13 felt, as strong a statement as possible.

14 I would have liked to have seen certain statements
15 stay in, but I understood the necessity to remove them, and I
16 think that the document, as it stands right now, continues to
17 present evolution as strongly as science deems it to be
18 taught in the classroom.

19 CHAIRMAN ROBERTI: Thank you.

20 If you had to think of any one thing that should
21 done at a local high school to improve that high school, and
22 assuming we had the money to do it, what would you think
23 should be done?

24 MR. MEHTA: I see as one of the major problems in
25 high school today is that we have an input of diversity, and
26 that the processes don't deal with that diversity. The
27 output, sometimes, deals with a very small group of students.
28

1 I think for honors level and motivated students who
2 want to -- who are college bound, our school systems are very
3 good and local high schools tend to be very good.

4 I think that the students who are not interested in
5 continuing college level studies are often alienated by a
6 system does not provide them with certain marketable skills.
7 I'd like to see at local high school levels greater
8 opportunities for vocational and technical training for
9 students who feel that certain college bound classes are not
10 ones that will serve their best interests.

11 CHAIRMAN ROBERTI: Any other questions of
12 Mr. Mehta?

13 Is there any opposition in the audience?

14 Your term is for one year.

15 MR. MEHTA: One year.

16 CHAIRMAN ROBERTI: Senator Craven has moved.

17 Secretary will call the roll.

18 SECRETARY WEBB: Senator Beverly.

19 SENATOR BEVERLY: Aye.

20 SECRETARY WEBB: Senator Mello.

21 SENATOR MELLO: Aye.

22 SECRETARY WEBB: Senator Petris.

23 SENATOR PETRIS: Aye.

24 SECRETARY WEBB: Senator Craven.

25 SENATOR CRAVEN: Aye.

26 SECRETARY WEBB: Senator Roberti.

27 CHAIRMAN ROBERTI: Aye.
28

1 The vote is five to nothing; confirmation is
2 recommended to the Floor.

3 Congratulations, and enjoy your year.

4 MR. MEHTA: Thank you very much, sir.

5 CHAIRMAN ROBERTI: The next appointment is
6 Sebastiano Sterpa, Chair of the Board of Directors,
7 California Housing Finance Agency.

8 Mr. Sterpa, we'll ask you the same question: why
9 you feel you're qualified to assume this position; I guess,
10 maintain this position?

11 MR. STERPA: Thank you, Mr. Chairman, Members of
12 the Committee.

13 My name is Sebastiano Sterpa from Glendale.

14 I have been in real estate, been a realtor and been
15 in real estate since 1955. In 1982, I was President of the
16 California Association of Realtors at a time our Association
17 was very much engaged in dealing with very high interest
18 rates, and we designed a bill, AB 3507, which was
19 overwhelmingly passed by both the Assembly and Senate, and
20 then became Proposition 5 on the ballot in November, 1982.

21 It was pretty much my idea that the first-time
22 buyer was very much in jeopardy of losing the status and the
23 opportunity of home ownership in California. At the time
24 during the Proposition 5 ballot, I lobbied extensively the
25 Proposition 5 with both Governor Deukmejian and Mayor
26 Bradley. And after Governor Deukmejian was appointed -- was
27 actually elected Governor -- I assumed that the -- and
28

1 through what became pretty much a lobby over the California
2 Association of Realtors and some of my friends in the Senate
3 and Assembly, I was asked to become Chairman of the
4 California Housing Finance Agency in 1984, February of 1984.

5 Since then, I served one full term, and I've been
6 reappointed by Governor Deukmejian for another five-year --
7 six-year appointment as the Chairman.

8 The reason why I think that I'm qualified for this
9 position is what we have accomplished this last six years in
10 the California Housing Finance Agency. The California
11 Housing Finance Agency today possibly is better off because
12 of what has happened these last six years. We think that we
13 are running a very important financial institution for the
14 State. We think that many of what has happened since 1984,
15 dealing with fiscal responsibility, matching funds, down
16 payments, which we talked about the 3 percent interest on
17 second trust deeds for the time of the loan. We also have
18 instituted self-help loan program. We think that we have
19 served both low-income buyers and low-income tenants in the
20 Agency.

21 Several things have come to our attention this last
22 year, and we are thinking that we are rectifying some of the
23 assumptions that are made by the California Housing Finance
24 Agency in the past.

25 Having said that, I'm open to any questions that
26 you have.

27 CHAIRMAN ROBERTI: The Agency has had some real
28

1 problems, especially with the overabundance of housing
2 assistance being directed to the Fresno area. And
3 overabundance is, I think, a modest word.

4 To what extent did you have control over that, and
5 what is the reason for it?

6 MR. STERPA: First of all, I would like to just
7 bring you a little bit, step by step, why that was happening.

8 Especially since 1986, with the tax reform of 1986,
9 and because of the inflationary spiral of the housing
10 industry in California in the past decade, we have seen an
11 erosion of what we say the affordability crisis -- the
12 affordability in the areas such as San Francisco, Los
13 Angeles, San Diego, and in the coastal areas. Where the
14 affordability was, has always been extremely visible, has
15 been in the valley, in the Central Valley districts, going
16 from Sacramento all the way down to Bakersfield, and
17 naturally, Fresno is part of it.

18 In fact, I can say to you that we have had, in
19 1989, we have had 162,100 new housing, new houses built in
20 California. Of that, 48,200 were in the Central Valley.
21 Only 30,800 new homes were in the affordability area. Of
22 that 30,800, 20,300 were in the Central Valley area. So, the
23 overwhelming affordable housing stock has been built in the
24 Central Valley.

25 Having said that, and that has been coming to us
26 for over a decade, we have an allocation system. We have had
27 as much as \$400 million per year, sometimes even higher than
28

1 that, sometimes lower, that has gone to housing assistance.
2 Of that money, we go to -- we ask for bids from developers
3 and mortgage bankers. They all come to us, and we are going
4 -- we have done the allocation based on the availability.
5 Assuming that we have had available \$200 million, and we have
6 had \$300 million in requests, our past experience has been
7 going by -- giving two-thirds to those ones which have -- who
8 have requested the assistance.

9 Until last year, and we became very much aware
10 that, unfortunately, because of the affordability crisis, we
11 began really assisting more the Central Valley areas. And
12 while Fresno has been one of the biggest recipients of this
13 -- of our loans, Sacramento was very close behind Fresno for
14 many, many years, including last year.

15 I will say I have questioned this; staff has
16 questioned this for quite -- for the last couple years. We
17 have made a study.

18 And by the way, I would like to, on behalf of the
19 Director of the Agency, I would like to say that he has
20 never been in the Allocation Committee, part of the
21 Allocation Committee of CHFA. CHFA has been -- has had
22 allocation directors for areas, such as one in the northern
23 part of the San Francisco area, one in the southern part, and
24 one in the central area, and they have been making
25 recommendations to a committee on CHFA. The committee of
26 CHFA was made up of senior staff, and Karney Hodge was not
27 part of that.
28

1 It is true that Karney Hodge finally ended up with
2 the report of senior staff, but to my knowledge, he has never
3 overruled the senior staff where the allocation was going.

4 I think the culprit of the problem was the fact
5 that, if we received \$300 million in requests, and we had
6 only \$200 million, we gave on a basis of two-thirds of those
7 ones who requested.

8 Now, being the Central Valley very aggressively,
9 and the developers have very aggressively building new houses
10 in those areas, they have been also very aggressively seeking
11 our help, seeking our funds.

12 Having said that, we have -- and again, I'm not
13 trying to justify that maybe it's true, that maybe we should
14 have done sooner the recognition that this was going toward
15 one segment of the state. So, we ended up studying the
16 problem. Having studied the problem, we became -- on
17 September 15th, 1989, much before the article from the L.A.
18 Times came about, or even much before the investigative
19 reporter of the L.A. Times came and found out that -- the
20 problems that he talked about, we made a decision that we're
21 going to form six regions in California. And those six
22 regions will receive an allocation based on the amount of the
23 population in those regions.

24 And we'll be asking -- this has already been in
25 effect, and we have now been seeing that many people, some
26 developers, and mortgage bankers from both Sacramento and
27 Fresno, are unhappy with us because we have rerouted that
28

1 amount of money. It looks like that it's been working, and I
2 think we have rectified that problem.

3 CHAIRMAN ROBERTI: There was some mention that you
4 had some financial dealings with Mr. Hodge?

5 MR. STERPA: I don't think I did him a favor.

6 CHAIRMAN ROBERTI: You did him a favor?

7 MR. STERPA: I don't think so. I think that if at
8 all, Mr. Hodge should be very upset with me.

9 I have been in real estate, as I said, since 1955.
10 I've had a large real estate company, residential company,
11 but personally I've done many syndications, many
12 partnerships. I have now come to a conclusion that, in my
13 later years, I don't want any part of the partnerships
14 because, while I have done -- about 95 percent or 99 percent
15 of the partnerships have been very successful, one or two or
16 three or five percent have not been very successful.

17 One of the -- this was about, maybe, four, five,
18 six years ago, Karney Hodge and I were talking about, and I
19 mentioned that I was purchasing on a partnership basis an
20 office building in Glendale. Well, Glendale has been an
21 extremely good area to purchase properties. Unfortunately
22 for office buildings this last four or five years, it's been
23 a very -- there's been a glut of office buildings.

24 Mr. Hodge invested, I believe it was in a little
25 excess of \$20,000 in the building in this project. I
26 personally had started out with an investment of in excess of
27 under \$1,000. As the paper said, it was almost \$200,000.
28

1 The project, I had one major tenant. After four years, the
2 major tenant was there, and thinking that he was going to
3 renew the lease, the major tenant left just at a time when
4 there was a tremendous vacancy factor in this -- in Glendale.

5 Since then, as of March of 1989, I repurchased all
6 the partnerships, my partnership shares, myself and was on a
7 discounted basis. So, Mr. Hodge really has lost some money
8 in his dealings with me. So, I'm not sure that he's very
9 happy that he has done me a favor or I have done him a favor.

10 CHAIRMAN ROBERTI: Are there any other questions of
11 Mr. Sterpa? Senator Petris.

12 SENATOR PETRIS: I don't know if this was covered
13 before, but I've been concerned about the statutory goals.
14 We've had them on the books since the creation of the
15 Agency, and it was one of the major issues when the bill was
16 going through, and that was to apportion 25 percent of the
17 projects for low income.

18 The Agency has never even come close. I mean, that
19 was true under Governor Jerry Brown. I had a major dispute
20 with the first Chairman and members of that Agency in Jerry
21 Brown's term because they seemed to immediately tilt it
22 toward the moderate and upper income levels, to the exclusion
23 of the statutory requirement. Now I understand that the
24 level is only at 11 percent.

25 Why is it that we don't put more money where
26 there's such a great need and where the statute requires it?

27 MR. STERPA: Senator Petris, I think I sympathize
28

1 with that, and we have tried to deal with that problem.

2 Let me say that, first of all, I would like you to
3 recognize that we are not funded by the State fund. We do
4 not receive any grants by anyone.

5 SENATOR PETRIS: You have bonds.

6 MR. STERPA: We go on the capital market and borrow
7 money at a much less interest rate than anybody else. That
8 is true because of tax-free bonds.

9 But then, we are, by statute, we will put on just
10 enough to satisfy the bond requirements, and if we borrow
11 money at 7 percent, we'll give it -- the cost of 8.1 or 8.2
12 percent. And that's by statute that we have to do that. And
13 the difference between the 7 and 8 -- let's say the 8.1
14 percent, will be serving not only for paying the mortgage
15 bankers for what they are doing for the service they are
16 providing us, the bond holders, capital market, what they are
17 providing us, and the balance, a very narrow balance, for
18 CHFA. Now, CHFA, while we have had in the past 20 years that
19 it has been in existence, has accumulated a certain amount of
20 reserves. By statute or by bond requirements, the
21 predominant majority of that fund must be there, allocated
22 for -- as reserves for making sure that the bond holders are
23 protected.

24 Where ever we have a community, we've committed
25 somewhere about \$10 million in really unrestricted funds, \$10
26 million in unrestricted funds, we are helping people with --
27 sometimes we have done, especially for low-income housing,
28

1 because of the tax reform of 1986 that has really tilted
2 completely away from us the opportunity to really go into the
3 multifamily low-income family home, family apartment houses.

4 We are trying to help nonprofit organizations
5 sometimes with second trust deeds at 3 percent, which are not
6 even paid until the time that the loan is completely paid
7 off, and at the time the 3 percent is on the due without --
8 not compounded interest.

9 So, we have a limit of what we can do. And we hope
10 that we have done as much as we can.

11 We like to -- I do know that with Proposition 84,
12 and we have received from Proposition 84 approximately \$25
13 million in grants, we have already given \$4 million --
14 allocated \$4 million under that Proposition 84.

15 Also, under Proposition 84, HCD has a certain
16 amount of money that we are in negotiations with them to try
17 to leverage that money for the benefit of low-income housing.

18 SENATOR PETRIS: How many units have been built
19 actually for low income in the last two or three years?

20 MR. STERPA: Not very many.

21 And let me -- the last -- since 1986, I can answer
22 it to you in this way. In 1984, '85 and '86, we did as much
23 as \$78 million in multifamily low-income housing. But since
24 the tax reform has come about in 1986, we have done as low as
25 \$10 million per year. The reason is not that we have not
26 really publicized it, but we're aggressively going out to
27 local entities, nonprofit organizations, but there is no
28

1 incentive for developers to build any longer low-income
2 family without getting the tax write-offs that were there
3 before 1986.

4 Now, those ones that are coming to us today,
5 they're all nonprofit organizations. And believe me, we have
6 -- we are trying to ask nonprofit organizations, on a daily
7 basis, to come to us because we do have the money.

8 SENATOR PETRIS: Were the private companies
9 participating in it before, before the amendment to the tax
10 codes?

11 MR. STERPA: Yes, before 1986, a developer -- a
12 loan was tied for as much as -- as long as 20 years on a
13 performance with one of our loans.

14 In order to get our loan, you have to agree to a 20
15 percent of the units built to go to 80 percent of the -- 20
16 percent to 80 percent of the people had the -- their median
17 income was below the state -- the area, the region median
18 income, 80 percent below.

19 And how we work it out is that then, another 20
20 percent to lower: one to very low, and 20 percent to low
21 income, by low-income tenants. And that happened to be such
22 as -- assuming that they built ten units, two units would go
23 -- six units would be at market. If market was at \$600, six
24 units went for \$600 a unit. Two units would be rented at 40
25 percent of that \$600, which would be 40 percent less, which
26 would be about \$360 per unit. And 20 percent would be rented
27 for \$480 per unit. And they had to agree in writing that
28

1 that stipulation was going to go on for 20 years, and we were
2 monitoring on a yearly basis what was happening.

3 Today, again, that is not happening because they
4 are no longer the incentive. The incentive was that, 20
5 years from now, a developer had a pretty good piece of
6 property. But for 20 years, he probably wasn't making
7 anything other than the tax write-offs that were going with
8 the development.

9 SENATOR PETRIS: Well, that leads me to the next
10 question.

11 I don't know, it just seems that we pass all kinds
12 of legislation. We have bonds. We aim certain amounts for
13 the poor, and we never seem to be able to do it. Maybe we
14 just ought to have a different mechanism, a different
15 arrangement, that we don't rely on the federal statute and we
16 don't rely on the private sector at all. Just make it a
17 government-subsidized thing and appeal to the local agencies,
18 the public agencies, and the private nonprofit ones to come
19 in and do it.

20 How do you get in touch with a nonprofit agency?
21 Do you have a statewide mailing list?

22 MR. STERPA: Yes.

23 And by the way, when I became Chairman of the Board
24 in 1984, the Agency was only dealing with new construction.
25 Coming from the real estate people -- the real estate sector,
26 we are at this point pretty much at balance with 50 percent
27 both resales and 50 percent to new construction.
28

1 We -- at that time, there was practically very
2 little communication. In fact, the Agency was almost not
3 known throughout the State of California, other than special
4 groups such as developers and some mortgage bankers.

5 We have instituted a communication system by which
6 every financial institution is on our mailing list. Every
7 developer is on our mailing list. Every nonprofit
8 organization and community is on our mailing list. And they
9 are really -- we have done a lot of work in the last couple
10 of years since 1986 with the CRA of the City of Los Angeles,
11 the Community Redevelopment Agency of the City of Los Angeles,
12 when we have been giving them secondary -- first trust deeds,
13 and they were coming in with second trust deeds in very, very
14 low income apartment houses.

15 SENATOR PETRIS: With all that activity, you're
16 still not able to get enough to meet the statutory
17 requirement.

18 MR. STERPA: No, as I said, I think we have some
19 hopes that with our involvement with HCD and, as you know,
20 HCD has Proposition 84, has about \$200 million in funds that
21 can be channeled toward housing. We possibly can design a
22 mouse trap to really reach the low-income tenants.

23 I have to agree with you that some -- so that this
24 Committee doesn't -- you Senators don't believe that we are
25 not doing it, the day before yesterday -- no, it was last
26 week on Thursday, at our latest Board of Directors, we had a
27 nonprofit organization come in to us with a request from the
28

1 City of Santa Ana down in Orange County. And the request --
2 the request, unfortunately, we denied the request because the
3 City of Santa Ana was putting so many -- so many fees and so
4 many onerous problems to this -- to their development that,
5 all of a sudden, we ended up with approximately \$140,000 per
6 unit for a nonprofit organization. We thought it was
7 absolutely ridiculous.

8 SENATOR PETRIS: Per unit meaning what? Per
9 building?

10 MR. STERPA: No, per apartment.

11 SENATOR PETRIS: Per living unit?

12 MR. STERPA: Per living unit for senior citizens.

13 We sent a message to the City of Santa Ana that
14 unless they will lift certain of the restrictions, we are not
15 going to make the loan.

16 Under some of the restrictions they were putting
17 together, yes, they were giving a \$300,000 grant to this
18 nonprofit organization. On the other hand, they were making
19 this nonprofit organization build a parking structure for a
20 senior citizen development for $2\frac{1}{2}$ parking spaces per unit;
21 $2\frac{1}{2}$ parking spaces per unit, which would -- really meant that
22 the \$300,000 that they were giving this nonprofit
23 organization, they were getting it back. They were actually
24 making them spend it on the parking structure.

25 Then, on 20 units or 21 units, I believe there were
26 either 20 or 21 units, they were asking in excess of \$180,000
27 in fees: school fees, and recreation fees. And so, this
28

1 actually was a ridiculous thing, statement.

2 Then the members of the Board unanimously told them
3 to go back, and we went the message to the City of Santa Ana
4 unless they lift those restrictions -- actually, what they
5 were trying to do is pat them on the back that now they
6 helped with \$300,000, a nonprofit organization build
7 something for elderly people.

8 SENATOR PETRIS: You're aware of the termination of
9 subsidized housing, all those HUD programs of various
10 categories. The estimates we get are about 117,000 units
11 will be eligible to go off the subsidy and on to the free
12 market if the owner so chooses, which will create and is
13 creating now -- some of them are already out -- substantial
14 problems for the lower income people living in those units.

15 Is there any plan to get into that area to try to
16 alleviate it? Is there some way the Agency can participate
17 in that?

18 MR. STERPA: We talked about that. I don't know
19 that the Agency has the funds to really do anything, but one
20 thing that we do have is the funds to make a loan to maybe a
21 nonprofit organization to go in and try to buy these units.

22 SENATOR PETRIS: Have you had any inquiries from
23 nonprofits to help you on that?

24 MR. HODGE [from the audience]: Not extensively,
25 no. On some occasions, yes, there has been, and we have
26 worked with the San Francisco office of HUD on many of the
27 projects they have where we could work out some kind of
28

1 financial --

2 SENATOR PETRIS: We want to get you on record, so
3 you've got to use the microphone.

4 MR. HODGE: Okay, I'll do that.

5 I think you're talking about preservation on the
6 units that are going to have expiring contracts.

7 SENATOR PETRIS: Yes.

8 MR. HODGE: And those, indeed, we are in
9 negotiations right now with HUD, whereby we might develop
10 some kind of partnership with them, and they own a lot of
11 those -- they're lenders on a lot of those units and to see
12 if indeed we can't develop some kind of financial mechanism
13 that will address that.

14 Secondly, I think Senator Roberti has a bond
15 measure up. As a matter of fact, I was just talking to
16 Ms. Minnehan earlier in the afternoon -- whereby the funds
17 that are being allocated in that bond issue would be for
18 preservation as well as some other things, specifically
19 addressing the issue that you raised. So, indeed there is.

20 The problem is two-fold. One is, the developer
21 wants money. He has equity in that project. He wants
22 money. And secondly is, the preservation aspect of it. So,
23 if we can somehow arrange financing that will give him his
24 equity and, at the same time, preserve those units, we'll
25 really have something in hand worthwhile. That's exactly
26 what we're directing our attention to currently.

27 SENATOR PETRIS: Okay, thank you.
28

1 CHAIRMAN ROBERTI: I do want to say, despite all
2 the problems CHFA has had, it has been very helpful to me in
3 putting together the bond issues, and my staff as far as the
4 housing bonds. So, I think that should be mentioned.

5 Is there any opposition in the audience?

6 SENATOR MELLO: Mr. Chairman, I had a couple
7 questions.

8 CHAIRMAN ROBERTI: Excuse me, I'm sorry. Senator
9 Mello.

10 SENATOR MELLO: I wanted to follow through on what
11 Senator Roberti was asking you about the article in the L.A.
12 Times regarding these financial ties to the Director.

13 Now, you explained it all that you saved money, and
14 so forth and so on. I think you're missing the point here.

15 The question I want to ask you is, do you not see
16 the fact that you became financially involved with the CHFA
17 Director, Mr. Karney Hodge, where you go in together in
18 financial transactions, don't you see that as a conflict of
19 interest, or a moral conflict, by doing that?

20 MR. STERPA: Senator Mello, I didn't think that it
21 was a conflict of interest. I didn't think -- personally, I
22 don't believe it was a conflict of interest, but if it was,
23 it was rectified by no longer being tied with Mr. Hodge in
24 any financial partnership.

25 SENATOR MELLO: I think that it poses a possible
26 conflict of interest any time a member of the Board, or in
27 your case, Chairman of the Board, gets into a financial
28

1 investment with the Director. Having those kind of close
2 ties could influence also the Director's decisions on
3 projects that might be favorable to you or to your
4 constituency or to your friends, or whatever.

5 MR. STERPA: I have never -- to that extent, I have
6 never brought any of my projects to CHFA. None of my -- in
7 no way -- I have never abstained from voting on any of the
8 projects because never any one of my friends, or people I
9 know, has ever brought a financial project in front of CHFA.

10 SENATOR MELLO: You don't know. It's a case, I
11 think, of perhaps building up this close relationship which
12 would influence a decision into either pointed in the
13 direction of projects that you like better than another
14 project.

15 I think your explanation to Senator Roberti, in
16 that you saved him money by the project, not being partners,
17 as I understood your statement --

18 MR. STERPA: I didn't save anybody's money. I said
19 that I lost his money for him.

20 SENATOR MELLO: Oh, you lost money for him, yes.
21 But that's not --

22 MR. STERPA: He did not make any money.

23 SENATOR MELLO: But he still stood a chance to gain
24 money.

25 What I'm saying is, any time people invest together
26 where they have -- I just think you have to look at that
27 differently.
28

1 The other question I wanted to ask you is about
2 another Los Angeles Times article. I'm just amazed to see
3 that Fresno County got twice the Agency funded housing units
4 as Los Angeles County, Orange County, and San Diego County
5 all combined. In Los Angeles County, there's a list of
6 93,000 people waiting for subsidized rental units for some
7 3500 units that are expected to open up this year.

8 You know, the population, if you added L.A. with
9 about 9 million or 10, Orange County, and San Diego, and then
10 have twice the units in Fresno, you're not really serving the
11 statewide interests or the demographics of the state.

12 MR. STERPA: Last year we, as I said before, we
13 have correct that problem. It was a problem -- it wasn't
14 that the problem was designed to be a problem. It became a
15 problem because, by having -- going out and soliciting
16 developers and mortgage bankers to ask for commitments, and
17 you know, commitment with us also carries a certain amount of
18 money that they put up. And if they don't use that
19 commitment, they lose that amount of money that they put up.
20 It's a percentage that goes anywhere between half a percent
21 to as much as three percent, depending on the length of the
22 commitment and so forth.

23 What did happen is that because most of the new
24 construction that was affordable was happening in the Central
25 Valley, and Fresno is part of it, but Fresno was not the
26 only one. Sacramento was very close to Fresno as far as the
27 amount of loans that they received from CHFA. Because of
28

1 that, very few loans were coming from the Los Angeles, San
2 Francisco, San Diego, or the coastal area.

3 An additional problem was that CHFA was restricted
4 from really making loans to condominiums for quite some
5 time, and most of the projects that were affordable in these
6 areas were condominiums. And condominiums needs to have an
7 insurance for -- an insurance, mortgage insurance that was
8 not available.

9 Now, because of all these things put together, what
10 happens, the people were making -- asking for commitments,
11 even although Los Angeles mortgage bankers and Los Angeles
12 developers knew they were not coming from Los Angeles, but
13 they were coming from Fresno, Sacramento, Bakersfield, the
14 areas around where there were houses at affordable prices,
15 which meant, until last year, below \$100,000, because our
16 average loan has been about \$75,000.

17 SENATOR MELLO: I think the point, here again, you
18 get your money from bond issues that are approved by the
19 voters statewide, or some federal funds that come.

20 You're shaking your head. The money that you're
21 getting is coming through an authorization of the public
22 somewhere; isn't that correct?

23 MR. STERPA: The bond issue, we go to the capital
24 market and we ask for a bond issue sometimes of \$50-100
25 million, \$200 million, as much as \$200 million at a time.
26 And that bond issue has a restriction in what we can do with
27 that amount of money.
28

1 SENATOR MELLO: Let me ask the question
2 differently.

3 The name of your agency is the California Housing
4 Finance Agency; is that correct?

5 MR. STERPA: Correct.

6 SENATOR MELLO: That's the whole State of
7 California; right?

8 MR. STERPA: Correct.

9 SENATOR MELLO: So it seems to me you have a
10 responsibility to serve the whole state.

11 MR. STERPA: We are -- as I said, Senator, we have,
12 since September 15, 1989, we have rectified that. We have
13 brought -- we have put together six regions. One is called
14 the Bay Area, which is --

15 SENATOR MELLO: You put them together. I'm talking
16 about, you're here for confirmation, and I'm looking at you.
17 You've been on the Board five years; right?

18 MR. STERPA: Six.

19 SENATOR MELLO: Six years. So, this term will be,
20 what? Another five or six years?

21 MR. STERPA: Well, it will be another five and a
22 half years, because a half year has gone by already.

23 SENATOR MELLO: So the point is, I come from the
24 Monterey Bay area. How many of these units went in the
25 Monterey Bay area?

26 MR. STERPA: How many units were built below --
27 that were last year below \$120,000 price in the Bay Area?
28

1 SENATOR MELLO: There were some.

2 MR. STERPA: Monthly.

3 SENATOR MELLO: But that's a coastal area. Are we
4 going to be priced out of the market because we live along
5 the coast line, where 90 percent of the people live within 30
6 miles of the coast line of California?

7 When you go to the Valley -- I'm not knocking the
8 Valley; they have tremendous needs, too -- but we are the
9 State of California. How come we're not getting it?

10 Our area, the Monterey Bay area, we have a
11 tremendous need for housing. We had the earthquake that put
12 about 4,000 people out of their homes.

13 But the point is, my God, Los Angeles, and Orange
14 County, and San Diego, and these other areas, have even a
15 greater need.

16 MR. STERPA: You're right, Senator; you're right.

17 And we have the Governor's proposal. And I'm not
18 here to really talk about necessarily the Governor's
19 proposal. But the Governor's proposal that will incorporate
20 the \$200 million from Proposition 5 of 1982 will be dealing
21 with that, because that will be assisting people in the -- as
22 much as \$187,500 sales price.

23 SENATOR MELLO: But here's the point again --

24 MR. STERPA: But we can't do it. We are restricted
25 from the Agency. We cannot go above \$120,000 sales price.

26 SENATOR MELLO: Same thing with the Veterans'
27 Administration and Cal Vets, as time comes, you have to live
28

1 in the real world.

2 And the Governor's plan may be as bold as he thinks
3 it is, but it does not help deal with the problem. It deals
4 with first-time home buyers and people in the upper income
5 bracket who are trading up to a better home.

6 I mean, the people that need housing, affordable
7 housing, are renters and homeowners that really something
8 that's going to be relevant to their low income category.

9 MR. STERPA: Senator Mello, there's nobody more
10 gung-ho on helping first-time buyers than me. I'm the guy
11 that really --

12 SENATOR MELLO: I want to help first-time buyers,
13 but I think we miss the point if we don't even go beyond
14 that.

15 You see, the thing is, I'm Chairman of the Senate
16 Subcommittee on Aging, and I'm working on behalf of senior
17 citizens. I have a lot of bills trying to protect these
18 housing units coming off the market.

19 The federal government's just going to write them
20 off, and they're going to go to the market rate and a lot
21 higher.

22 I haven't seen CHFA do a heck of a lot up until
23 now, other than what you said we're talking about looking
24 into. Well, you can look a lot, but a lot of people are
25 going to be out in the streets, a lot of old people who were
26 born and raised here in California.

27 MR. STERPA: If you give us a bill that will deal
28

1 with that, and we can go aggressively after the preservation
2 of those units --

3 SENATOR MELLO: Are you asking anybody for it?

4 MR. STERPA: We can't do it with the restrictions
5 that we have.

6 SENATOR MELLO: Well, to me, I tell you what, the
7 housing situation in California is bad, and it's getting
8 worse. It's just like the highways. They're getting bad,
9 and they're getting worse. Our schools are getting bad. And
10 one of these days, we're going to have to deal with these
11 problems: housing, education, highways, and jobs. We're
12 just not doing it.

13 Mr. Chairman, I'd like to ask you a question. I
14 did not look into the file here until the meeting here and
15 was somewhat taken aback by some of the incidents that we
16 have here about the conflict of interest, and also the
17 housing.

18 Is there a deadline to get him confirmed in the
19 next month or so?

20 MS. MICHEL: We have until September, I think;
21 September 16th.

22 SENATOR MELLO: I'd really like a little bit more
23 time to look into his background. I'm interested in looking
24 at that conflict of interest.

25 Also, I'm still angry, I think, on what happened at
26 the federal level, that you're not responsible for.

27 CHAIRMAN ROBERTI: When was the L.A. Times article?
28

1 SENATOR MELLO: April 22nd.

2 But what's happening at HUD through Mr. Pierce and
3 others, the allegations there, which I think are shocking and
4 they're under investigation now, and I'm not implying that
5 you're in any way connected with this, but what's happening
6 where the money went into Fresno, it seems to me that
7 somebody was pointing the arrow away from L.A., and Orange
8 County, and San Diego, and other parts of the state, and
9 Fresno got really a tremendous amount of units there.

10 SENATOR CRAVEN: Well, Henry, don't you think that
11 economics played a little part in that?

12 You're talking about Los Angeles, Orange County,
13 San Diego, the highest priced real estate in the State of
14 California.

15 SENATOR MELLO: But they have housing --

16 SENATOR CRAVEN: The Central Valley, the
17 opportunity to build at lower costs were available, and I
18 think that's what Mr. Sterpa said.

19 SENATOR MELLO: It'll get to the point where all
20 your people in Oceanside will have to move to Fresno to live
21 because of the inaction of --

22 SENATOR CRAVEN: No, we have some -- we have had
23 lower cost housing in Oceanside.

24 SENATOR MELLO: Well, I'm saying, Mr. Chairman, I'd
25 like to, if the Committee's inclined, put this over for a few
26 weeks. We have plenty of time to get into more of the detail
27 here to see --
28

1 CHAIRMAN ROBERTI: We'll respect your wish.

2 My inclination is to vote for Mr. Sterpa. I don't
3 feel that any of the allegations regarding the Fresno debacle
4 have, certainly not at this juncture and to my knowledge,
5 have been pinned to Mr. Sterpa. I think Mr. Hodge, if he
6 were here, should have some questions to answer.

7 SENATOR PETRIS: He's just helping his own town.

8 MR. HODGE: I'm here, and I'd have no reservations
9 in answering that question, if you'd like me to.

10 SENATOR MELLO: But your name is not Hodge.

11 MR. HODGE: Senator, I'm the Director. I'm Karney
12 Hodge.

13 I have no equivocation about answering any question
14 you might want about any of those allocations that went
15 anywhere.

16 CHAIRMAN ROBERTI: Please do.

17 MR. HODGE: There's a network of mortgage bankers
18 that we work with throughout the State of California that
19 have offices in every part of the state, whether it be in Los
20 Angeles, or whether it be in San Francisco, or whether it be
21 in Oakland, or whether it be anywhere else.

22 Those mortgage bankers are advised when we have
23 monies from bonds that we've sold in the capital markets. We
24 ask for submissions of any construction that they have in the
25 pipeline so that we can indeed fund those projects.

26 These mortgage bankers have offices everywhere
27 throughout the state, Senator Mello.
28

1 Those proposals that come to us, come to us because
2 they fit within the federal guidelines of the program that
3 we're under. We don't make these guidelines as to what we
4 can fund or we can't fund.

5 And in 1986, I must tell you, the Tax Reform Act of
6 that year reduced even further, and became even more
7 stringent, as to the priced homes that we could indeed fund.
8 I'm not talking about multifamily; I'm talking about single
9 family.

10 We recognized this problem after the 1986 Tax
11 Reform Act, and just about a year ago, we said there's too
12 much of these monies going into the Central Valley. How can
13 we indeed address this issue and see if we can't spread it
14 out throughout the state in a more equitable manner.

15 We, as Chairman Sterpa mentioned, we broke the
16 state down into six regions, and specifically went out to
17 these folks and said, "Look, we're putting this money aside
18 for you. We want you to use it here because there hasn't
19 been enough activity in this particular region as opposed to
20 some of the others."

21 What that did was, it forced the mortgage bankers
22 to become more active in those areas where there was no
23 activity, but in some instances, when the cost of housing is
24 such that they can't product it at the prices that we're
25 restricted in funding, then there's nothing that they can do
26 about it.

27 SENATOR MELLO: See, the point is, and I keep
28

1 referring to it, and I wasn't around then, but when they
2 bought Alaska for \$7 million, there was a big debate about
3 how expensive it was, and it was Seward's folly.

4 And the point that I'm getting at, right here,
5 right now, people along the coastline, people in other areas,
6 are being denied affordable housing and housing in your
7 programs because you do not want to allocate it fairly around
8 the state. That's what I'm griping at.

9 MR. STERPA: Senator Mello --

10 SENATOR MELLO: You can say the mortgage bankers
11 are not running CHFA. You people are.

12 MR. STERPA: Senator Mello, I think that if we
13 ended up making new rules -- now remember that the rules are
14 federal guidelines, number one. Number two, we must do what
15 CHFA was created for and nothing else. And if we start
16 making up our own rules, the bond holders will call those
17 bonds because the bond holders also have those -- I'm very
18 happy to really change those rules if we can.

19 SENATOR MELLO: If you want to pass the buck, go
20 ahead. I think --

21 MR. STERPA: No, no.

22 SENATOR MELLO: None of us, we're not going to meet
23 the housing needs in this state until we have a commitment to
24 go out and build housing. We have to have a commitment from
25 everybody.

26 MR. STERPA: As a realtor, in 1986, '87, '88, and
27 '89, the California Association of Realtors came up with the
28

1 blueprint for the housing needs in California. I think that
2 it was distributed to all the Senators and Assemblymen at
3 your office anyhow, and I was part of it.

4 We recognized the problem that we have in
5 California. I am a very big advocate of the need that we
6 must really -- I campaigned in 1982 as President of the
7 California Association of Realtors on the needs of the first-
8 time buyer.

9 But without money, I don't know how we can do it.
10 And I'm not saying that we should give up.

11 But I think in CHFA, in all honesty, you know, I'm
12 here -- I don't get paid for this job. And why do I think
13 that maybe I like it, to do it again? I am doing it because
14 I enjoy doing it, and because I have a commitment to the
15 housing industry and to the first-time buyers.

16 Whatever we can do, we're going to do it well. And
17 sure, if we had the funds, if we are allocated a couple
18 hundred million dollars from the State of California to help
19 first-time buyers, and to help low-income tenants, and so
20 forth, I think we can go in and start making loans at 5
21 percent or 4 percent, all kinds of things.

22 We don't have that. We borrow at 8 percent. We
23 give it at 9 percent. We make sure that we have to give it
24 with safety because we don't want to also become one of the
25 banks or savings and loans that all of a sudden ends up
26 losing everything.

27 MR. HODGE: Senator Mello, I think it's also, in
28

1 all fairness, with regard to the Agency, unless we have these
2 mortgage bankers submitting to us proposals for development,
3 there's no way we can go into the capital markets and sell
4 bonds to the public and say, "Yes, we will pay you. We want
5 to borrow money from you, and we will pay you back from the
6 mortgage revenue that comes in from these homes."

7 And when we go into the capital market, there's
8 nobody supporting us when we go in there.

9 SENATOR MELLO: Are mortgage bankers only located
10 in Fresno?

11 MR. HODGE: No, they're located throughout the
12 State of California. That same mortgage banker that's in
13 Fresno also has offices in any other city in the state. He
14 is going to --

15 SENATOR MELLO: My point is, I want to make the
16 point that a disproportionate share of housing went to the
17 Central Valley and Fresno. And because of that, the coastal
18 areas and other major urban areas suffered in not getting
19 their fair share of housing.

20 MR. HODGE: I think we addressed that.

21 As Chairman Sterpa said, last year, in September of
22 last year, we broke the state down into regions. We
23 allocated monies. We're taking a chance that we were going
24 to get some business from there without, perhaps, commitment
25 in advance, and have gone to these mortgage bankers and said
26 that these allocations are for these regions, and we would
27 like to see some business come in from those regions to have
28

1 a fair distribution of funds throughout the State of
2 California.

3 I can honestly tell you, there isn't anything else
4 we can do beyond that, sir.

5 MR. STERPA: Senator Mello, I would like to
6 just --

7 CHAIRMAN ROBERTI: What's the average? Give us an
8 idea of how much money we're talking about per house. Run us
9 through the procedure.

10 MR. HODGE: What our procedure has been up to this
11 point was to reach down to the lowest sales price that we
12 possibly could and the lowest income.

13 CHAIRMAN ROBERTI: What is?

14 MR. HODGE: Twenty-five thousand income, seventy-
15 five thousand loan. That's give or take --

16 CHAIRMAN ROBERTI: And the loan covers how much of
17 the house?

18 MR. HODGE: Ninety-five percent of it.

19 CHAIRMAN ROBERTI: So, we're talking about like an
20 \$80,000 house.

21 MR. HODGE: Yes. That's give or take on the
22 average.

23 So, we've had a responsibility --

24 CHAIRMAN ROBERTI: It's a \$75,000 loan.

25 In like the Bay Area or the L.A. region -- I take
26 it you have an L.A. region or something like that -- you're
27 not going to find an \$80,000 home.
28

1 MR. HODGE: That's correct.

2 CHAIRMAN ROBERTI: What process are you going to
3 follow?

4 MR. HODGE: Again, as Chairman Sterpa said, we're
5 betwixt and between, really, and the program that has been
6 submitted by the Governor basically is to address the higher
7 cost areas. And he is using as the figures in his proposal
8 the pre-1986 federal guidelines.

9 And the purpose of that program is to come on top
10 of what we're currently able to do, to reach out to a higher
11 cost individual.

12 On the rental units --

13 CHAIRMAN ROBERTI: What's your lowest cost home in
14 Los Angeles now?

15 MR. STERPA: The median in L.A. right at this
16 present time is \$225,000.

17 CHAIRMAN ROBERTI: But you wouldn't go to the
18 median. You would go to --

19 MR. STERPA: But the lowest, I think, that you'd be
20 able to find in the Los Angeles area is --

21 CHAIRMAN ROBERTI: In some quantity.

22 MR. STERPA: In some quantity, it would be about
23 \$135-140,000, which is well above our guidelines.

24 CHAIRMAN ROBERTI: Now, you say you're following
25 federal guidelines.

26 MR. STERPA: Correct.

27 CHAIRMAN ROBERTI: Do you have to follow the
28

1 federal guidelines?

2 MR. HODGE: Yes. There's no other way we can
3 operate with tax-exempt monies.

4 They -- as a matter of fact, the tax-exempt --
5 mortgage tax-exempt revenue bonds may not even be extended.
6 That comes up for an extension this year. It's in the
7 federal -- Donnelly out of Massachusetts, he got the bill,
8 HR 1200, which gives us an extension on tax-exempt bonds. If
9 we don't get that extension, then we have no money to work
10 with within the capital markets.

11 MR. STERPA: With the Governor's bill, the
12 Governor's proposal, we will be dealing with taxable funds,
13 taxable money, so we're not going to be involved with the
14 federal guidelines. So therefore, we can make up whatever
15 the bill deals with, and they'll be talking about -- I
16 believe that the guideline would be about as much as 187.

17 CHAIRMAN ROBERTI: You were talking about a \$75,000
18 loan. If you're above that, you need not apply, I would take
19 it, because --

20 MR. HODGE: No, that's the average, so there's some
21 above that and some below that.

22 CHAIRMAN ROBERTI: So, 75,000 was your average?

23 MR. HODGE: Yes.

24 CHAIRMAN ROBERTI: What was your top figure?

25 MR. HODGE: The top figure would be, according to
26 county, but it could be no more than the existing federal
27 guidelines, that we cannot fund a home with any more than 90
28

1 percent of the average sales price within that county.

2 CHAIRMAN ROBERTI: Okay. So, in L.A., you could
3 have funded a home of 90 percent of the median.

4 MR. HODGE: That would have been --

5 MR. STERPA: Average is quite a bit less than the
6 median.

7 MR. HODGE: The top of the --

8 CHAIRMAN ROBERTI: Give me L.A., because that best.

9 MR. HODGE: The top figure is 153,000.

10 CHAIRMAN ROBERTI: In L.A. the average is 153,000?

11 MR. HODGE: No, that's the top figure. That's 90
12 percent of the average sales price. And current federal
13 guidelines say you can't fund above 153,900. That's current.

14 The Governor's proposal, as it's being proposed,
15 goes back to the pre-1986 guidelines, which at that time was
16 100 percent of the average sales price.

17 CHAIRMAN ROBERTI: So, in L.A. you couldn't fund
18 above 153,000, which probably meant that for you to fund in
19 L.A., you'd have to do it in the Antelope Valley anyway.

20 MR. STERPA: Correct.

21 MR. HODGE: That's absolutely right.

22 That's not our guidelines. That's if you use tax-
23 exempt bonds. That's it. There's no way you change that.

24 And I understand what Senator Mello is saying. I
25 do.

26 CHAIRMAN ROBERTI: I think the article in the Times
27 was very helpful, and it enlightened us as to the problem.
28

1 I think you could have been more judicious in
2 trying to find greater geographic funding.

3 MR. HODGE: I agree.

4 CHAIRMAN ROBERTI: But there is an enormous problem
5 that was not addressed in that article.

6 In Los Angeles County, even to fund at this level,
7 they'd have to go into Antelope Valley, as far as I can tell,
8 which isn't accommodating anybody because it's just a whole
9 different world.

10 MR. STERPA: Correct.

11 MR. HODGE: I would tell you, not to defend
12 ourselves, but a year ago or a year and a half ago, when I
13 saw this, I said, "This can't continue." I says, "You've got
14 to come up with some kind of plan that'll have a more equal
15 distribution." Because clearly, I'm sensitive to just what
16 is going on today.

17 I mean, there's -- you folks represent the State of
18 California, and my purpose would be to address the whole
19 state, not any one particular pocket.

20 I would like to also say, Senator Mello, that --
21 and I don't think I would feel comfortable unless I did --
22 the kind of time and effort that Chairman Sterpa has put in
23 as a lay person on the Board is, I think, beyond reproach.
24 He has done, in my mind, an outstanding job, and I have
25 served on lay boards for the State of California in my other
26 life and know the kind of commitment that it takes; know the
27 kind of time that that takes. And I will tell you that I
28

1 don't know anyone that's worked any more in the capacity of a
2 lay person doing the job that he's done for the State of
3 California as well as for the Agency.

4 I seek his counsel. He's been extremely helpful.
5 He's been a perfect gentleman to work with, and you ought to
6 have all chairman of the same caliber serving on all your
7 committees, and you'd have no problem with the way they
8 function.

9 SENATOR MELLO: None of my statements were directed
10 at him personally.

11 I'm just getting angrier and angrier about our
12 housing problem around this state. When I see things
13 happening that favor one area over another, it even makes me
14 more angry.

15 CHAIRMAN ROBERTI: I think what CHFA did, which I
16 think was a mistake, is, you weren't imaginative in trying to
17 address the needs of the entire state. And that being the
18 case, obviously, the Central Valley was going to come out
19 like gang busters, because that's were the lower priced
20 houses are.

21 I frankly am glad the article was written;
22 otherwise, I might not myself have known about the problem.
23 Although, I know you addressed it --

24 MR. HODGE: Some time ago.

25 CHAIRMAN ROBERTI: -- some time before this article
26 was written. But I think it really highlights an enormous
27 problem that we have in this state, and what happens when an
28

1 Agency lacks that imagination.

2 I don't think that deals with personal turpitude on
3 anybody's part, but I'm glad you have addressed the problem.
4 Even in the L.A. Times article, Mr. Sterpa's name was not one
5 of the culprits. I guess you were, Mr. Hodge, but you're not
6 up today, and you make an interesting case as far as what the
7 problem is.

8 I think our major problem is just the disparity of
9 the housing market, and the difficulty of finding anything
10 that's affordable.

11 That's why basically I'm supporting the Governor's
12 approach. I don't agree on all fours with everything he's
13 trying to do, but I think it's an approach that's geared
14 toward California as far as first-time home buyers are
15 concerned.

16 It's your call, Senator Mello. I'd like to take it
17 up today, but I will defer to a Member.

18 SENATOR MELLO: I was not aware of all of these
19 things here, and I would like a couple weeks to look at some
20 of them. I'd like to look into this Fresno thing a little
21 bit more, and also the --

22 CHAIRMAN ROBERTI: Why don't we --

23 SENATOR MELLO: I will say this, if you want to go
24 ahead, I'll just vote no on it, and I'll just try to hold it
25 up on the Floor until I can get some more information.

26 CHAIRMAN ROBERTI: That's what we normally do.
27 I'll hold it up on the Floor for three weeks, and we'll vote
28

1 on it now, but we'll hold it on the Floor for three weeks.

2 MR. HODGE: Fine. You're welcome to all the
3 information that you wish, Senator Mello. You can send
4 somebody over and have them go through our records any time.

5 SENATOR MELLO: I'm not an investigator. I don't
6 have that much time.

7 I do know that there's senior citizens who were
8 born and raised in Monterey County and Santa Cruz County who
9 are now moving away from there. You know why? They can't
10 afford the housing there.

11 And it makes me a little unhappy to see people who
12 are not drifters who floated into our beautiful area, but
13 people who have lived their whole lives there.

14 MR. HODGE: If I may, without belaboring the point,
15 Senator Roberti --

16 SENATOR MELLO: Go ahead.

17 MR. HODGE: I've gone personally over to HCD,
18 Housing and Community Development. I've talked to
19 Ms. Higgins, and I said, "Look, you have in the Roberti bill
20 \$200 million for low cost rental housing." I said, "Don't
21 spend that all." I says, "Take a \$5 million project; spend
22 a million dollars for equity. We'll go to the bond market
23 and borrow \$4 million, and you can take that \$200 million and
24 do a billion dollars in rental housing."

25 I think that makes good sense to do.

26 CHAIRMAN ROBERTI: It does.

27 MR. HODGE: We've set up committees. They have
28

1 met. I can't tell HCD what to do, other than suggest.
2 That's not -- I'm not the Director of HCD, but I can tell you
3 without any reservation, I've talked to her two or three
4 different times. She seems very receptive to the thought.

5 That, indeed, would be five times what that program
6 will do currently, and you could indeed hit the lower income
7 rental because they have that money that they can put in as
8 equity. And by putting it in as equity, you can reduce the
9 monthly rental. We'll go to the bond market with a 20
10 percent equity and borrow without a problem. And you can
11 take that program and do five times what it's --

12 SENATOR MELLO: Why aren't we doing it?

13 MR. HODGE: We are doing it, but I can't --

14 SENATOR BEVERLY: Mr. Chairman.

15 MR. HODGE: I can only do so much.

16 CHAIRMAN ROBERTI: Senator Beverly

17 SENATOR BEVERLY: With the understanding that the
18 confirmation will be held on the Floor for at least three
19 weeks, I'll move the approval of the confirmation.

20 CHAIRMAN ROBERTI: Senator Beverly moves the
21 confirmation.

22 Is there any further opposition? Seeing none,
23 Secretary will call the roll.

24 SECRETARY WEBB: Senator Beverly.

25 SENATOR BEVERLY: Aye.

26 SECRETARY WEBB: Senator Mello.

27 SENATOR MELLO: No.
28

1 SECRETARY WEBB: Senator Petris.

2 SENATOR PETRIS: Aye.

3 SECRETARY WEBB: Senator Craven.

4 SENATOR CRAVEN: Aye.

5 SECRETARY WEBB: Senator Roberti.

6 CHAIRMAN ROBERTI: Aye.

7 The vote is four to one; the confirmation is
8 recommended to the Floor. We'll hold it for three weeks.

9 MR. HODGE: Is there anything, Senator Mello, you'd
10 like me to do with regard to any information that might be
11 helpful to you?

12 SENATOR MELLO: I want to talk to our consultant
13 first and see what might be in her file.

14 MR. HODGE: We'll be happy to do that.

15 CHAIRMAN ROBERTI: Thank you very much.

16 [Thereupon this portion of the
17 Senate Rules Committee hearing
18 was terminated at approximately
19 5:15 P.M.]

20 --oo0oo--

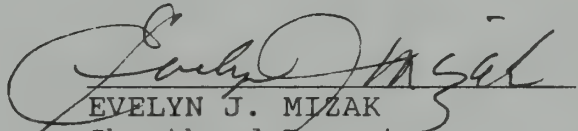
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I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 18th day of May, 1990.


EVELYN J. MIZAK
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APPEARANCESMEMBERS PRESENT

SENATOR DAVID ROBERTI, Chairman

SENATOR WILLIAM CRAVEN, Vice Chairman

SENATOR ROBERT BEVERLY

SENATOR HENRY MELLO

SENATOR NICHOLAS PETRIS

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

ALFONZO A. GOMEZ, Superintendent
Deuel Vocational Institution

DANNY MACIAS, President
Chicano Correctional Workers Association

ANTHONY M. VITTI, Member
Trustees of the California State University

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P-R-O-C-E-E-D-I-N-G-S

--oo0oo--

SENATOR CRAVEN: Next is Governor's Appointees appearing today, the first of whom is Alfonso A. Gomez, Superintendent of Deuel Vocational Institution.

If you will come up and be seated, Mr. Gomez, and tell the Members of the Committee why you feel that you are qualified for this important position.

MR. GOMEZ: Yes, good afternoon, ladies and gentlemen. For the record, my name is Alfonso A. Gomez.

As a career employee of nearly 30 years, I have experienced a wide variety of assignments in correctional settings. Working up through the ranks has provided me with invaluable operation and knowledge and the respect and the respect of inmates and staff alike.

My previous assignment as a new prison manager during construction, staffing, and activation at Avenal State Prison was a difficult and challenging task. Avenal State Prison was the first modern, free-standing institution completed to accommodate the growth needs of the State of California.

On August the 19th, 1987, I appeared before this Committee and was confirmed as Superintendent of Avenal State Prison.

I am here today to receive your support and confirmation as Warden of Deuel Vocational Institution. Deuel Vocational Institution was my career start as a correctional officer in 1960. The greater Tracy area was my home as a youth,

1 and I have many close friends that are community leaders in that
2 particular area.

3 As a career State employee, I've always maintained a
4 strong, supportive position on policies as enacted by the
5 Legislature. During fiscal austerity, I am sensitive to fiscal
6 budget constraints and the vested public trust to ensure that
7 tax dollars are managed appropriately. I have always maintained
8 institutional operations within budgeted allocations.

9 I am very much in support of a firm stand against
10 crime, requirements for restitution, victim rights, and
11 intervention programs, and I have a consistent underlying
12 objective, and that is for a cooperative effort to provide for
13 increased public safety.

14 Thank you.

15 SENATOR CRAVEN: Very good, thank you very much,
16 Mr. Gomez.

17 Senator Petris.

18 SENATOR PETRIS: Thanks, Mr. Chairman.

19 What's the current population in relation to the
20 design capacity? Are you one of those institutions that's way
21 over?

22 MR. GOMEZ: I'm currently operating at 210 percent of
23 design capacity at the present time. My design capacity is
24 1631; my count as of today was 4,436.

25 SENATOR PETRIS: That sounds like most of the adult
26 State prison facilities.

27 MR. GOMEZ: Pretty much across the board.
28

1 SENATOR PETRIS: What is the current extent of prison
2 inmate labor? How many of the young people there are actually
3 doing work?

4 MR. GOMEZ: Currently, I have -- 96 percent of my
5 general population is currently employed.

6 SENATOR PETRIS: What do they do primarily?

7 MR. GOMEZ: They have different support service type
8 jobs. We have a prison industries, which employs about 551.
9 Also we have people enrolled in the different vocational and
10 education programs, culinary, and again, the support services
11 type.

12 SENATOR PETRIS: Do have any information on what
13 impact, if any, this kind of training has had on them after they
14 leave?

15 MR. GOMEZ: The one that we -- that I am particularly
16 proud of is the vocational program. Again, we have air frame
17 and auto -- or, air engine. And again, we are accredited by the
18 FAA, and that is probably one of the better programs throughout
19 the state, where people can come in and they actually look at
20 our inmates. And based on the accreditation and based on the
21 training that they receive in those two particular programs, are
22 offered jobs while they're still incarcerated, as an example.

23 SENATOR PETRIS: What impact has that had on
24 recidivism?

25 MR. GOMEZ: Just in that one program, the inmates who
26 have graduated from that program do not come back. This has
27 been a significant portion or percentage of that.
28

1 SENATOR PETRIS: It's way below the normal?

2 MR. GOMEZ: Yes, sir.

3 SENATOR PETRIS: Is there any reading program?

4 MR. GOMEZ: Yes. Currently the -- as new inmates are
5 received at Deuel Vocational, our standing policy is, those
6 inmates that do not have at least a 6.0 reading ability,
7 illiterate, we enroll them in school. And again, that serves as
8 a springboard for later on to become involved in the vocational
9 programs.

10 SENATOR PETRIS: What percentage of them are
11 illiterate when they come in? Let's say functionally
12 illiterate.

13 MR. GOMEZ: It would be about 25-30 percent, maybe.

14 SENATOR PETRIS: Is there capacity to provide
15 literacy courses for all of them?

16 MR. GOMEZ: Yes, I have an institutional t.v. And
17 again, we provide some of those educational training courses on
18 t.v., and they're allowed to see that.

19 SENATOR PETRIS: Do you have any affirmative action
20 or discrimination cases pending in your department from your
21 personnel?

22 MR. GOMEZ: Currently I have one that I just became
23 aware of about two weeks ago.

24 SENATOR PETRIS: And that's the first one in how
25 long?

26 MR. GOMEZ: Since I've been there, since October
27 the 2nd of 1989. That's the first to my knowledge that's come
28

1 up since I have been there.

2 SENATOR PETRIS: That sounds pretty good.

3 MR. GOMEZ: Not too bad of a track record, Senator.

4 SENATOR PETRIS: Now, on rehabilitation, I'm always
5 interested in that. I think all of us are.

6 This vocational training, I'm sure, is very key in
7 that and a very important part of it.

8 Do you think that you're able to do enough toward
9 rehabilitation? And if not, why not? Is it due to lack of
10 enough resources, or personnel, or --

11 MR. GOMEZ: I think we present -- Senator, I believe
12 that we present that opportunity to our general population, to
13 those inmates who are confined at Deuel Vocation. Again, the
14 better part of the responsibility rests with them.

15 SENATOR PETRIS: It's voluntary?

16 MR. GOMEZ: Well, with the exception of the reading,
17 the literate program, again, if they don't come in with that
18 sixth grade literate ability, reading ability, then of course we
19 enroll them in school.

20 SENATOR PETRIS: That's required?

21 MR. GOMEZ: That is required, yes.

22 SENATOR PETRIS: What about illegal drugs?

23 MR. GOMEZ: We don't have any classes with that,
24 Senator.

25 SENATOR PETRIS: You don't have any?

26 MR. GOMEZ: No.

27 SENATOR PETRIS: If you don't, you're the only
28

1 institution in the state, including our leading banks, and
2 ranging from that down to the prisons.

3 MR. GOMEZ: We have two -- one particular class that
4 I'm particularly proud of and that what's called -- the acronym
5 for the program is SAVE: Substance Abuse, Victory and
6 Education. And again, it's a 13-week program, and again, we try
7 to give that particular student attending the class some drug
8 abuse kind of education, some self esteem, that kind of thing.

9 SENATOR PETRIS: Have you been doing it long enough
10 to be able to measure its success?

11 MR. GOMEZ: No. At this point, no.

12 SENATOR PETRIS: We're all worried about the
13 generation of waste and pollution.

14 Is there any program to reduce or minimize the waste
15 within the facility?

16 MR. GOMEZ: Yes. We do have a recycling center. All
17 the waste material, garbage, et cetera, that is taken out of the
18 institution is brought to the corporation yard at our recycling
19 center. We have inmates that are assigned to that particular
20 program that rummage and go through all the garbage cans. And
21 those clothes that are reusable, we return back to the clothing
22 room. Any aluminum cans, anything that we can recycle, paper
23 and the like, we recycle.

24 Last year, I think, we realized a savings of
25 approximately \$7,000.

26 SENATOR PETRIS: Do you feel the prison population
27 has been made more aware of the problem of recycling and the
28

1 need for it through that program?

2 MR. GOMEZ: I believe so, yes.

3 SENATOR PETRIS: You've raised their consciousness
4 on it?

5 MR. GOMEZ: Hopefully. That's one of our objectives,
6 yes.

7 SENATOR PETRIS: When they go out the door, you give
8 them the usual lecture and say, "remember to recycle"?

9 MR. GOMEZ: With styrofoam cups, yes.

10 [Laughter.]

11 SENATOR PETRIS: Well said. Thank you.

12 I knew we were on the right track with this cup
13 thing.

14 [Laughter.]

15 SENATOR CRAVEN: Very well.

16 Senator Beverly, no.

17 Do you have anyone in the audience who wishes to
18 testify on behalf of Mr. Gomez? Please come forward, and state
19 your name for the record.

20 MR. MACIAS: My name is Danny Macias. I'm the State
21 President of the Chicano Correctional Workers Association.
22 Today with me is Tony Vaya, the Vice President of the Northern
23 Chapters, and we are here in support of Al Gomez for his
24 appointment as the Warden of DVI.

25 We've known him for a long time. He is a member of
26 our organization, and he has always shown a firm commitment to
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1 the affirmative action goals of the Department of Corrections,
2 and he has shown a commitment to maintaining a balanced
3 work force at his institutions.

4 And with that, we support and hope that you will
5 confirm his appointment.

6 Thank you.

7 SENATOR CRAVEN: Thank you very much, sir.

8 Anyone else who wishes to testify? There appears to
9 be none.

10 SENATOR BEVERLY: Move the approval of the
11 nomination.

12 SENATOR CRAVEN: Senator Beverly moves the
13 appointment to the Floor of Alfonso A. Gomez.

14 Call the roll, please.

15 SECRETARY WEBB: Senator Beverly.

16 SENATOR BEVERLY: Aye.

17 SECRETARY WEBB: Senator Mello. Senator Petris.

18 SENATOR PETRIS: Aye.

19 SECRETARY WEBB: Senator Craven.

20 SENATOR CRAVEN: Aye.

21 SECRETARY WEBB: Senator Roberti.

22 Three-zero.

23 SENATOR CRAVEN: Three-zero; it's approved and to the
24 Floor.

25 Thank you, sir.

26 MR. GOMEZ: Thank you very much.

27 SENATOR BEVERLY: Leave the roll open for the
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1 Chairman.

2 SENATOR CRAVEN: Yes, we will.

3 [Thereupon the Rules Committee
4 acted upon legislative items
5 on the agenda.]

6 SENATOR CRAVEN: Let's go now to Item Three again in
7 the confirmation hearing on Anthony M. Vitti, Member of the
8 Trustees of the California State University.

9 Mr. Vitti, would you please come up and tell us why
10 you are qualified to hold this important position?

11 MR. VITTI: Thank you. Good afternoon.

12 I think I'd like to begin by just giving you a little
13 background on myself, if I may.

14 SENATOR CRAVEN: Fine. You do it any way you like.

15 MR. VITTI: I was born in Connecticut. I attended
16 high school in Stamford, Connecticut. I'm a graduate of the
17 University of Miami with a Bachelor of Business Administration.
18 I graduated in 1965.

19 I have a Juris Doctorate Degree from San Fernando
20 Valley College of Law. I attended law school in the evenings,
21 was sworn in in the State of California, the State courts, in
22 1971. I practiced law in Orange County for approximately 11
23 years, where I had my own law firm.

24 I retired from the practice some seven, eight years
25 ago and entered the mortgage banking, mortgage brokering, and
26 real estate development business. And I continue in that
27 business, and have recently become Co-chairman of the Board of
28

1 Directors in Manchester Development, which is a subsidiary of
2 Fidelity National Financial, an American Stock Exchange firm.

3 I reside in Orange County with my wife, Jan, and my
4 daughter Kristen and son John.

5 I was appointed by Governor Deukmejian in August, the
6 end of August, 1989, and attended my first meeting of the Board
7 of Trustees in September of 1989.

8 I have enjoyed the last eight or nine months serving
9 as a Trustee. I've found it very rewarding, very challenging,
10 to say the least, and would like very much to be confirmed and
11 to continue in that capacity.

12 I might add that in addition to the background I've
13 given you, I serve on the Board of Directors of Commerce Bank,
14 an independent State-chartered bank which was co-founded by
15 myself and four other businessmen in Orange County some ten
16 years ago. And I serve on the Board of Directors of Stagg
17 Foods, Inc., which is a family-owned business and is in the
18 canned food business primarily.

19 SENATOR CRAVEN: Very well, thank you very much,
20 Mr. Vitti.

21 Senator Petris.

22 SENATOR PETRIS: I guess you came in at a time of
23 turmoil at the top level.

24 MR. VITTI: Senator, do you want an answer to that?

25 SENATOR PETRIS: No, I'm just surmising. You can
26 answer if you want.

27 MR. VITTI: I think that's an understatement, yes.
28

1 SENATOR PETRIS: Now, one of the big controversies
2 was the tremendous pay increases for the Chancellor and for some
3 of the top administrators. It's alleged that at a meeting in
4 November, '89, the Board authorized the Chancellor and the Chair
5 of the Board to go ahead and do this. I think there's at least
6 one member who says that never happened.

7 Do you have a recollection of that?

8 MR. VITTI: I might add that the meeting that
9 salaries were -- salary increases were discussed was my very
10 first meeting as a Member of the Board of Trustees.

11 My recollection is the discussion and dealing with
12 the authority of the Chairman to handle that issue. I recollect
13 that I was in favor of the concept of being competitive with the
14 industry and keeping ourselves abreast of salaries as they stand
15 in the general education environment.

16 My impression was, in terms of leaving that meeting
17 -- and I must say it was my first meeting, and there was a lot
18 to comprehend and certainly a desire to catch up with other
19 Members of the Board in terms of understanding what the issues
20 were, what the implications of being a Board Member was -- but
21 my recollection was that I was very much in favor of staying
22 competitive.

23 SENATOR PETRIS: The actual numbers weren't
24 authorized at that time. They were authorized to go out and
25 determine --

26 MR. VITTI: I'm sorry; I didn't hear you.

27 SENATOR PETRIS: The determination of the actual
28

1 amount of the salary was left to the Chancellor and the Chairman
2 of the Board.

3 MR. VITTI: That's my recollection, sir.

4 SENATOR PETRIS: The Board didn't take a vote on any
5 specific salary?

6 MR. VITTI: Not to my recollection.

7 SENATOR PETRIS: Well, the problem that we had up
8 here with the process was that they didn't do that at a public
9 meeting. Now, this had happened in 1984. It was another very
10 dramatic increase, not nearly as dramatic as this last one, and
11 Members of the Senate were pretty upset about it, especially in
12 the Appropriations and Budget Committees.

13 Senator Presley had written a letter to the
14 Chancellor in '84, to which she responded and apologized for
15 that lack of public hearing, and said that in the future, that
16 these decisions would be made at public hearings. And then, of
17 course, one of the big complaints we had this time was that that
18 wasn't done.

19 Have there been any discussions subsequent to her
20 departure about clarifying that policy and making certain that
21 it doesn't happen in the future?

22 MR. VITTI: The letter you speak of was something
23 that I learned of only recently, and I'm quite certain that
24 that's the case with all or -- I would venture to say all
25 Members of the Board of Trustees.

26 If, obviously, if that letter were available to us at
27 the time of the meeting we spoke of earlier, I think direction
28

1 would certainly have been given to handle things differently. I
2 think we acted in response to that.

3 SENATOR PETRIS: Which subcommittees do you serve on?

4 MR. VITTI: I have been nominated, or actually at
5 this point, appointed to the Collective Bargaining Committee,
6 the Finance Committee, and Campus Planning, grounds.

7 SENATOR PETRIS: You've got some pretty hot ones
8 there.

9 MR. VITTI: Yes, I do.

10 SENATOR PETRIS: Collective bargaining has been a
11 subject of great controversy for the last several years, and the
12 faculty comes in every year to complain. Their complaints have
13 not been as much on policy as they've been on procedure.
14 They've had a number of complaints for unfair labor practices
15 based on refusal to negotiate in good faith, which is required
16 by every employer-employee collective bargaining statute in the
17 state, you know, which caused considerable concern among some of
18 us on the Committee. Regardless of the outcome, there should be
19 good faith talks held pursuant to the statute itself and just
20 good common sense anyway, good policy.

21 Now, have any problems arisen during your short time
22 on there to enable you to shed light on that for us?

23 MR. VITTI: It's been less than a week, but I --

24 SENATOR PETRIS: You've been on that committee less
25 than a week?

26 MR. VITTI: Yes.

27 I might add, I have a personal feeling that we're
28

1 entering an era where there is more cooperation, I think, and
2 fair dealing and good faith on the part of the unions and on the
3 part of the Board.

4 I have no agenda that would be negative to or negate
5 that good faith, and it's my intent and hope to uphold that.

6 SENATOR PETRIS: Well, we get some good reports from
7 the labor people - there are a lot of unions involved there as
8 well as the faculty people -- of substantial improvement in
9 attitude and relations during this past year.

10 Do you have anything to do with the affirmative
11 action policy? You're not on that subcommittee, I take it?

12 MR. VITTI: I'm not, except to the extent that it
13 impacts other committees we're on. I served on the Presidential
14 Selection Committee for Cal. State Fullerton, and certainly that
15 was a very important ingredient to the entire selection process.

16 SENATOR PETRIS: Are you on the current search
17 committee for a new Chancellor?

18 MR. VITTI: I am not on the current search committee.

19 SENATOR PETRIS: You are?

20 MR. VITTI: I am not.

21 SENATOR PETRIS: You're not.

22 MR. VITTI: I'm on the committee dealing with the
23 residence issue.

24 SENATOR PETRIS: Residence?

25 MR. VITTI: Yes, the disposition of the house.

26 SENATOR PETRIS: Oh, the house down there. Good
27 luck.
28

1 Thank you, Mr. Vitti.

2 MR. VITTI: Thank you, Senator.

3 SENATOR CRAVEN: Does anybody else have any comment?

4 SENATOR PETRIS: If nobody else has a comment,
5 Mr. Vitti looks to me like an impressive person with his
6 background, training, experience.

7 I'm going to ask that it be put over because of an
8 inspirational speech given by the Governor many years ago,
9 complaining bitterly about 11th hour appointments by an outgoing
10 administration for fixed terms.

11 This term goes for seven years, I understand. Is
12 that right?

13 MR. VITTI: It would be eight years from the time of
14 the appointment, which was -- the appointment was made last
15 August.

16 SENATOR PETRIS: So, in November you will be here a
17 year.

18 MR. VITTI: No, in August I will be.

19 SENATOR PETRIS: So, it's a little difficult to say
20 this, because this is no reflection on you at all as an
21 individual, and your capacity, and so forth.

22 But I find it difficult to approve an appointment at
23 this 11th hour that's going to go eight years or seven years,
24 now, into the future.

25 I think the incoming Governor ought to be making
26 appointments of that duration. In fact, even for one year, for
27 that matter. Maybe we can strike a balance somewhere with two
28

1 years, you know.

2 So, I would like to have this matter put over to give
3 me a little more time to think about that and maybe discuss it
4 with others.

5 I'm telling you that so that you won't think I found
6 something in your record which I think disqualifies you. That's
7 not the point. I hope you understand.

8 Now, if that would be granted, I'd like to see this
9 put over.

10 CHAIRMAN ROBERTI: Maybe I'll assume the Chair to
11 discuss this one.

12 I don't think we've established a policy on how to
13 handle the lame duck appointments. So, I think it's on us, and
14 it's going to be raised, so I think we have to do that.

15 My feeling in the case of Mr. Vitti, and all the
16 others who fall into his category, is probably a distinction
17 between those -- and I'll honor your request to put the matter
18 over, but I think we should make a distinction between those
19 that have been appointed for some time now, and simply because
20 of our logistical impossibility of hearing them, they've had to
21 wait until this post-primary election period, and new
22 appointments that the Governor might make.

23 As Mr. Vitti indicated, and I haven't met Mr. Vitti
24 before. I was reading from his background. He's been appointed
25 -- he's been on --

26 MS. MICHEL: He was transmitted to us in September
27 after we had adjourned.
28

1 CHAIRMAN ROBERTI: He was transmitted to us in
2 September, right, but we haven't been able to take him up now
3 until May.

4 SENATOR PETRIS: That's one of the things --

5 CHAIRMAN ROBERTI: I'm just throwing that as a
6 consideration.

7 For the world to know, and in my own mind, I'm going
8 to be making a distinction between those appointments that are
9 made for term before June, whatever the primary election date
10 is, and after.

11 That doesn't mean I'm going to vote against all those
12 that are made after June, but I certainly think at that point,
13 the extent of the term becomes a very relevant matter.

14 SENATOR PETRIS: That's one of the reasons I asked
15 that he be put over, because in all fairness to the appointee,
16 who's been serving since last year, he may not fall into the
17 category as opposed to somebody whose name is submitted next
18 week, or any time from here to the end of the year.

19 So, I think we need to review that. For that reason,
20 I'd request that it be put over.

21 CHAIRMAN ROBERTI: However, at Senator Petris'
22 request, we will put the matter of Mr. Vitti's appointment over
23 until on the call of the Chair, but before we recess for the
24 summer.

25 So, you get to come back one more time.

26 SENATOR BEVERLY: Mr. Chairman.

27 I just might observe, it's always been a policy of
28

1 this Committee, at the request of any Member, to hold over.

2 CHAIRMAN ROBERTI: Yes.

3 This is not particularly you. We do that whenever a
4 Member --

5 SENATOR BEVERLY: I'm pleased that Senator Petris
6 indicated his otherwise support for the nominee.

7 SENATOR PETRIS: Yes, that's right.

8 CHAIRMAN ROBERTI: And I'm just saying that I think I
9 should address the Governor on the point, too. I'm going to be
10 making a distinction in my own mind between those appointments
11 that are made before June and those that have been made after.

12 SENATOR CRAVEN: Mr. Chairman.

13 CHAIRMAN ROBERTI: Yes, Senator Craven.

14 SENATOR CRAVEN: I'm not making mention of this point
15 necessarily because of what Senator Petris has said, but there
16 seems to be, I think, a sort of a subliminal feeling that
17 appointees made by an outgoing Governor have a certain political
18 connotation to them. And it would be, I think, logical to
19 assume that those appointees follow the political line of the
20 outgoing Governor.

21 But we will run into, and I know one who will be
22 coming up in the not too distant future, an appointee of the
23 Governor to a board, I guess it is, and a person who has served
24 in the Reagan administration, found great favor in the Brown
25 administration, served throughout those years, and has also
26 served in the Deukmejian administration.

27 I cannot find in any respect any political tie to the
28

1 individual and the administration. They have done an
2 outstanding job. And I think when you hear and see this
3 gentleman, you would agree.

4 So, I wouldn't like to see anything that would
5 endanger someone who really has the competence from being
6 appointed simply because it was, sort of, the dying action of
7 the expiring Governor.

8 SENATOR PETRIS: Mr. Chairman, that's not my point.

9 I just have a vivid recollection of some very severe
10 bombardment of a Democratic Governor whose every appointment was
11 automatically treated as political, with a big speech on the
12 Floor, saying, "This is outrageous." And every Republican on
13 the Floor, almost without exception, voting against that
14 appointment.

15 Now, if that's a good policy for them, it's a good
16 policy for us. I want to clear the air on that.

17 It doesn't mean I will vote against Mr. Vitti.

18 SENATOR CRAVEN: No, I didn't think it did at all,
19 Nick.

20 SENATOR PETRIS: And I think your point on the person
21 who's served various administrations from one end of the
22 spectrum to the other is an excellent example.

23 SENATOR CRAVEN: It speaks well to their professional
24 qualifications.

25 SENATOR PETRIS: I don't intend to overlook that at
26 all.

27 CHAIRMAN ROBERTI: Mr. Vitti's appointment will be
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1 put over on call of the Chair, and that appointment will come
2 up, however, before we recess in the first week of July.

3 MR. VITTI: Thank you.

4 SENATOR CRAVEN: Mr. Chairman, may I ask that the
5 call be lifted on Item 3, the confirmation of Mr. Alfonso Gomez.
6 The vote's three-zero, and yourself and Senator Mello were
7 absent at the time.

8 CHAIRMAN ROBERTI: Senator Craven's moved the call be
9 lifted on the appointment of Mr. Gomez.

10 Secretary, call the roll.

11 SECRETARY WEBB: Senator Mello.

12 SENATOR MELLO: Aye.

13 SECRETARY WEBB: Senator Roberti.

14 CHAIRMAN ROBERTI: Aye.

15 The vote is five to zero; confirmation is recommended
16 to the Floor.

17 [Thereupon this portion of the
18 Senate Rules Committee hearing
19 was terminated at approximately
20 3:30 P.M.]

21 --oo0oo--
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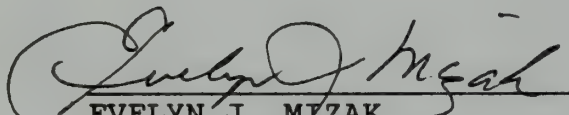
CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of May, 1990.


EVELYN J. MIZAK
Shorthand Reporter

